













PROGRESSIVE DEMOCRACY



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# PROGRESSIVE DEMOCRACY

ADDRESSES AND STATE PAPERS OF  
ALFRED E. SMITH

*New York (State) Governor, 1909-1920 (Alfred E. Smith)*

WITH AN INTRODUCTION BY  
HENRY MOSKOWITZ



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In the pilgrimage of Alfred E. Smith from Oliver Street to the Executive Mansion, at Albany, there were trials and triumphs. Throughout the journey a simple American family was by his side and to that family this selection from his public utterances is dedicated by the editor.





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## INTRODUCTION

The addresses and public papers of Governor Smith present such an embarrassment of riches that a mere chronological arrangement would necessitate an arbitrary choice of a few from an overwhelming number. The selection has been made so as to set forth the progressive democracy he represents. It covers his public career as legislator; president of the Board of Aldermen of New York City; delegate to the Constitutional Convention of 1915; and his four terms as governor.

Since he is essentially a man of action, Smith's speeches are frequently occasioned by an issue. They show him a militant champion of causes.

In his struggle to preserve liberty, personal, religious and civil, he formulated his conceptions of freedom under law in addresses, and particularly in State papers.

The reply to Charles C. Marshall in the *Atlantic Monthly* of April, 1927, is his most comprehensive treatment of the relation between Church and State. He formulated his principles of civil liberty in his vetoes of the laws passed by the Legislature to check revolutionary radicalism by methods which violated fundamental rights guaranteed the individual in a democracy. His approval of the repeal of the State act enforcing the Eighteenth Amendment sets forth his views in considerable detail on law enforcement and modification of the Volstead Act and the responsibility of a State government towards these issues.

"Equal opportunity for all and special privilege to none" is particularly dear to the progressive Democrat. As a general formula it sounds good and is harmless, but to apply it

honestly, sincerely, and effectively to concrete situations requires a high order of intelligence and courage. Governor Smith's mind is not content with uttering abstractions. His principles are made explicit and applied to definite situations. An example of this is his effort to conserve within the control of the people the last great natural resource of the State, its water power. The speeches and papers on this subject show an evolution from a policy of negation to one of positive construction. They cover a fifteen-year period, from his service in the Legislature to his fourth term as governor.

Under the heading of the Social Aspects of Government, a number of addresses have been selected illustrating his conception of the State as an instrument of social welfare. These are chosen to set forth the constructive reform he advocated at the time and his underlying social philosophy.

His utterances in the Legislature, the constitutional convention, and as governor show the development of a continuous and consistent program, sensitized to the economic needs of the times. They reveal a mind become socialized by the problems presented and demanding solutions for which old formulas were not adequate.

Underlying his administrative policy his speeches make evident the belief that government must in itself function efficiently as an administrative instrument if it is to be useful as an agency for social reform. His effort to remake the State government was largely conducted by addresses, debates, and State papers. Of these there have been selected a few to present as far as possible without repetition the whole picture of his conception of government as a business. These are included in his speeches on the reorganization of the State government, which he finally achieved after six years of opposition.

His conception of a sound fiscal policy for the State is found in his annual accountings to the people, his speeches



on an executive budget and debates with Governor Miller and Congressman Mills, when his financial policy was directly challenged by them and then acted upon favorably by the voters in the Bond Issue referendum of 1925.

Lack of space permitted the selection of only a few of his many campaign addresses which show his wit, humor, satire, ability to dramatize facts and to bring issues home to the man in the street.

Some of his statements on agriculture indicate a constructive point of view, extending over a long period of time. The first of the addresses chosen on this subject was made in 1920 and the other in 1928.

Much has been written about Governor Smith. This is a book by Governor Smith, and the selections from his spoken and written words communicate to the reader something of the naturalness and simplicity of the man, the combination of broad sympathy with sound business judgment, and above all, his record of constructive achievement as a progressive statesman.

In the assembling of the material grateful acknowledgment is made for the coöperation of George B. Graves, assistant and secretary to the Governor; James J. Mahoney, assistant secretary to the Governor; Mrs. James S. Wolf, and to the *Atlantic Monthly* for permission to republish Governor Smith's reply to Charles C. Marshall. Special acknowledgment is also due her whose editorial discrimination was ever available—my wife.

HENRY MOSKOWITZ.



PART I

PROGRESSIVE DEMOCRACY EXPLAINED





## TYPICAL CAMPAIGN SPEECHES

### *Delivering the Goods*

During the gubernatorial campaign of 1924, Colonel Roosevelt made the assertion as a Republican that "we put up men who can deliver the goods." Governor Smith, on October 29, 1924, replied at Stapleton, Staten Island.

In the course of his speech at Patchogue, Long Island, the Republican candidate for Governor said to the people of that section, "We put up men who can deliver the goods." That is the largest mouthful that the Republican candidate said in the whole course of his campaign. And certainly nobody in the State will disagree with him on that statement.

Let us look over the books for a moment and let us see just what goods were delivered and to whom they were delivered.

At Washington, the Republican party delivered the oil reserves that were assigned to the Navy for use in time of trouble to private oil interests, and the Republican candidate for Governor, according to his own sworn testimony, acted as the important messenger in the delivery. For making this delivery, a Republican cabinet officer stands indicted for corruption and malfeasance in office.

The Republican candidate for Governor of this State when he was Assistant Secretary of the Navy safeguarded the delivery of these goods when in time of peace he used the armed forces of the country to supplant civil authority, a proceeding which was denounced by the Senate Investigat-

ing Commission as "a perfectly outrageous use of the armed forces of the United States."

By the enactment at Washington of the Fordney-McCumber Tariff Bill the Republican party delivered the goods to the specially protected interests throughout the country.

They have been particularly solicitous about a free and open delivery of the goods to the beet sugar growers. The President himself has become a part of the delivery system as far as this particular interest is concerned, for he has held upon his desk since the twenty-ninth of last July a recommendation from the Tariff Commission that the tax on sugar be reduced a half cent a pound. This delivery to the special and private interests is costing the housewives of the United States \$140,000 a day.

The Republican head of the Veterans' Bureau in Washington has delivered the goods, not to the sick and afflicted soldiers, but to his friends and co-workers in the party, for which delivery of the goods he stands today indicted in the Federal courts.

In our own State the Republican party kept the delivery department open overtime to be sure that nobody missed anything that would be of any use in supplying ammunition to grease the machine in the time of political necessity.

The Republican Land Board delivered the goods when by a resolution late in 1922 they turned over 600 acres of choice timber land in the Adirondack preserve to the Santa Clara Lumber Company. When the Democratic administration came into power on the first of January, 1923, they took this back from the Santa Clara Lumber Company and delivered it to the people of the State of New York, the rightful owners of this valuable timber land.

The Republican party delivered the goods when they handed over to the Black Lake Bridge Company \$69,000 for

a broken-down, dilapidated bridge, condemned by the Federal Government and refused fourteen years ago by the Board of Supervisors of St. Lawrence County at a price of \$29,000. Incidentally, while on this subject, I ask you to look at the record of the investigation in Albany which shows how some of these particular goods were spread among faithful workers of the Republican party.

They delivered the goods to the Pittsburgh Aluminum Trust when for a song they made them a present of the Long Sault Rapids, the greatest potential development of water power on the St. Lawrence River. This delivery was made back in 1907 according to the Republican delivery slips, but in 1913 the Democratic party took it away from the Pittsburgh Aluminum Company and delivered it back to the people of the State of New York, who rightfully owned it and have it today in their possession with all of its great possibilities of water-power development.

By the creation of the Water Power Commission in 1921 they attempted deliveries of some more of the State's goods labeled "choice water-power rights." But the Democratic administration arrived in Albany on the first of January, 1923, and changed the label on the goods and delivered them back to the people of the State of New York, the rightful owners. The Republican party were balked in this attempt, but their desire to deliver has never been denied by anybody.

The record of the Republican candidate during his career in the Republican Assembly of this State shows very clearly that he is by no means a poor deliverer of goods himself. He attempted in 1921 to deliver the goods to the traction interests throughout the State when he voted for the Jenks bill to permit an increase in carfares. The attempt was frustrated because I was in the Executive Chamber at that time, but nobody can gainsay the fact that so far as the Republi-

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can candidate for Governor is concerned, he certainly tried his best to make a delivery of the goods to the traction interests.

He personally delivered the goods to the private water-power interests of the State when he voted for an amendment to the Constitution which would permit the flooding of three per cent of the people's Adirondack Preserve for private water-power development. This delivery was passed upon by the people at the November election of 1923, when by popular vote it was overwhelmingly defeated, but here again the Republican candidate for Governor had done his best as a delivery clerk.

To whom did he deliver the goods when he abandoned the minimum wage bill that he introduced in the Assembly of 1920 and left the committee room before the hearing on the bill had closed?

To whom did he deliver the goods when he voted against the forty-eight-hour bill to reduce the hours of labor for women and children?

To whom did he deliver the goods when he voted for the notorious bill which was designed to break down the law prohibiting night work of women in factories, passed for their protection and for the protection of the generations to come?

To whom did he deliver the goods when he voted against the first bill to allow tenants to contest unreasonable and exorbitant increases in their rent?

To whom did he deliver the goods when he remained silent while the legislative committee of which he was a member recommended the crippling of the Labor Department, rendering it helpless to enforce the beneficent labor laws enacted for the health, the welfare, the comfort, and safety of working men, women, and children?

To whom did he deliver the goods when he again re-



mained silent while the same committee weakened the administration of the Workmen's Compensation Law by arbitrarily cutting the bureau staff? This resulted in such congestion in compensation cases during the last year of the Republican administration that payments to injured men and women were cut to \$15,000,000. The Democratic party, when it came into power, delivered the goods to the injured men and women of the State and by efficient management and by adequate appropriations brought the sum paid for compensation up to over twenty-two and a half million dollars in the year.

The Republican party is not the only party in this State that maintains a delivery system in connection with the business of government. Let us for a minute look over the record and see to whom the Democratic party has delivered the goods.

In the Republican record, I showed by the delivery book that some of the goods that the Republican delivery department attempted to give away were restored to the people by the Democratic party.

The Democratic party delivered the goods to the public school system of the State when it increased the school teachers' salary at a time when it was difficult to get school teachers and to retain them in the State service because of the low wages paid for the performance of a great service to the State.

The Democratic party delivered the goods to the men, women, and children employed in industry by the rehabilitation of the Labor Department with adequate appropriations to permit it to function and enforce the beneficent statutes enacted by the Democratic party for their care, protection, health, and safety. It delivered the goods to the injured men and women of the State by making full and adequate appropriations to enable the department to give immediate con-



sideration to their claims for compensation after industrial accidents.

It delivered the goods to the unfortunate soldiers and sailors of the late war who returned home mentally afflicted when it made an appropriation for a Memorial Hospital for their care and treatment at Kings Park.

It delivered the goods to the rent payers of the large cities of the State by putting them in a position to contest unreasonable and excessive increases in rent and by preventing their eviction during the housing shortage.

It delivered the goods to mothers and children in accepting the benefits of the Federal subsidy for maternity and infancy care.

The Democratic party delivered the goods to widowed mothers and orphaned children when it initiated the Widows' Pension Act and guarded and extended child welfare legislation.

It is today preparing to deliver the goods to the crippled children of the State through the appointment of a committee to make a study of the whole subject, with the power to recommend adequate provision for their care and treatment.

It delivered the goods to the farmer by the enactment of the coöperative marketing bill. It delivered the goods to the farmer by perfecting, repairing, and maintaining a sound, permanent and scientific system of good roads throughout the State.

It delivered the goods to the farmers of the State when it met in full all the claims of the farmers against the State for the slaughter of their tuberculous cattle.

The Democratic party delivered the goods to the people of today and to the generations to come by the coördination and extension of the State park system and it proposes a further delivery with the assistance of the people at the polls this November when they vote the \$15,000,000 bond issue

for additional parks and breathing places for our people and for those to come after us.

It delivered the goods to all the people of the State by the enactment of a law to regulate the operation of motor vehicles to protect life and limb.

It delivered the goods to the public by its constructive program for the elimination of grade crossings for the protection of human life.

The Democratic party delivered the goods to the poor and afflicted in the State hospitals for the insane when it gave them additional doctors, additional nurses, and additional attendants, and it put the people of the State in a position further to deliver the goods by the \$50,000,000 bond issue for new buildings to prevent overcrowding and to minimize the danger from fire.

It delivered the goods when it provided for the reorganization of the government by constitutional amendments.

The Democratic party delivered the goods as far as it was able to do it in the face of stubborn, political reaction for partisan purposes in the consolidation of State departments by statute. The one important consolidation, agreed to by the Assembly leaders, of three departments into one permitted the Democratic party to deliver the goods in the way of a saving to the taxpayers to the amount of \$800,000 a year.

It delivered the goods when by constitutional amendment and statutes to support it, it gave home rule to the cities of the State, so that they may have local control over those matters which have to do with their own government.

It delivered the goods to all of the people in the cities of the State when it created the Bureau of Housing and Regional Planning, the first move on the part of the State to try to make more comfortable the home conditions under which people have to live.

It delivered the goods when it provided a State subsidy to the rural localities of the State for the promotion of the public health and for aid in the establishment of hospitals and clinics to be of service to men, women, and children needing hospital care and medical advice.

It delivered the goods to the cause of public education by increasing the State's contribution between 1919 and 1924 by \$36,000,000.

The Democratic party delivered the goods by the repeal of the un-American Lusk Laws, that sought to question the loyalty of the faithful, hard-working teachers of the State, and the Republican speaker of the Assembly was forced by the pressure of public opinion to take back something that he himself helped to deliver to the forces of blind prejudice and reaction.

It delivered the goods to the boys of the National Guard when it built a swimming pool for them and improved the living conditions at the State camp at Peekskill.

It is delivering the goods today to the soldiers and sailors who left the State to fight for their country in the Great War and it is meeting daily more than three thousand claims for the bonus.

Having done all this, the Democratic party delivered the goods to the taxpayers of this State by reducing their income tax payments by twenty-five per cent, and a similar amount was saved to the realty owners of this State.

The Democratic party delivered the goods to all the people of the State, by giving an efficient, intelligent, enlightened administration of the State's affairs with an eye single to the public welfare.

I simply ask the people of this State to look over the delivery slips in the main offices of both of the large delivery companies and find out to whom the Democratic party delivered and to whom the Republican party delivered.

Look at my record and at the record of my opponent and see where the decision lies as to who delivered the goods in the interest of all the people of the State, and who delivered the goods in the interest of private individuals and corporations who from time to time seek to use the State for their own selfish benefit.

*Speech at Madison Square Garden During the  
1924 Presidential Campaign*

This address at the Ratification Meeting at Madison Square Garden, New York City, on October 2, 1924, was particularly heartening to the Democrats of the nation, as it shows the Governor not a disappointed candidate but a loyal Democrat entering the lists for the presidential candidate of his party.

More people probably listened to the proceedings of a national convention last July, thanks to the radio, than at any time in the history of the country. I am satisfied that the further you extend the deliberations of any political group, the better it is for the party. No matter what we may have discussed among ourselves here, and whatever differences of opinion we may have had, I think it is pretty well conceded that from the deliberation of the delegates that sat in this hall during the convention, we have produced the best-equipped man to head the ticket this fall and to fill the presidential office during the next four years.

And I feel a certain amount of pride in saying that he is not silent. I never knew that we, as American people, had any particular devotion to silent people. Washington was not silent. If he had been, he might have lived in the ease and comfort that the British Empire would have given him if he had kept quiet. The ordinary man knows that Lincoln was not a very quiet man, he was not a silent man. He spoke some fundamental truths that plunged the whole nation into



war, and he was ready to go the limit on what he thought was right.

Grover Cleveland was anything but silent. When Cleveland thought that some of our friends across the ocean were about to violate a doctrine that we had adopted as the basic and fundamental principle of this country, he sent out a message, and there was nothing quiet about that. Roosevelt was not a silent man. The Lord knows Wilson was not silent. He spoke out in unmistakable terms, so that he was not only heard in our own country, but around the world.

So what is the virtue that grows out of this tremendous silence?

Permit me with characteristic modesty to say that I am not very silent myself. And permit me further to say that if I were, I would not get very far, because I have never had the good fortune during my long incumbency of the Governor's chair to have a Legislature in political sympathy with me; and unless I said something, nobody would know I was the Governor.

Originally this meeting was intended—and I always play the part assigned me—originally this meeting was intended to be a public appeal to register and to vote. The success of our democratic government depends almost entirely upon the interest that we take in it. The greatest privilege, after long years of struggle, is the right of the common citizen before the ballot box on Election Day to be able to say, "I am equal to any other man in all the land."

The State of New York by statute regulates the right and the privilege of voting, and so far as we are concerned in this city, it fixes definite dates when we can register. The days for registration begin on the morning of October 6 and end on Saturday, October 11. One full week is given to all of our residents of this city to record their names. And the man or the woman who fails to take advantage of that in a



whole week cannot be said to have very much interest in this country.

In fact, we have tried by statute law in this State to penalize those who do not vote. For a great many years a number of men thought that the registry list for jury duty was taken from the list of electors. They were fooling themselves, because that list is made up from the various directories; and in order to penalize the non-voters, as far as the State could do it, we made them preferred jurors, so that if they were neglectful of their duty to the whole community, they would be the first ones to do jury duty. Anybody who thinks that he is dodging the important duty of jury service by not registering is making a mistake, because he is putting himself in the preferred class for it.

I spoke of voting as a privilege. Let me speak to you for a moment about it as a duty—a *duty*. We are all stockholders in the great corporation of the United States. We own it. It belongs to us. Its officials are selected by us. True, it has great, dignified positions, but, after all, they are all working for us. What would you think of the man or woman who had stock in a great corporation, and who found that its affairs were being mismanaged and did not have interest enough to go and vote for a new directorate? Of course that would be the first thing to occur to everybody, and of course that would never happen. Our great trouble is to bring ourselves around to a sense of realization that we ought to take that same interest in the country.

To my way of thinking, the man or the woman who refuses to register and vote this year is not interested to the slightest extent in the all-important question of whether or not the government ought to be administered honestly.

What an awful calamity it would be if a sufficient number of people got it into their minds that they did not care. What would become of the affairs and the business of the

nation, not to speak at all of the disposition that might thereafter be made of the great resources of the country?

What is the meaning of all the investigations in Washington? What have we all been talking about for the last year? Teapot Dome does not mean somebody's head. It is the name which has been applied to a reserve of natural resources that the country set aside for the use of the Navy. Is it possible that there are any considerable number of men and women in this State who, by their failure to register and vote, are going to put their stamp of approval upon what happened in Washington to that great natural resource in the last four years?

As I see it, the great thing is not so much that there had been an agreement made to divest the proper authorities of control over the oil fields, but the greatest proposal and the one in which we all ought to be interested is that a great arm of the national defense was crippled, according to the language of the indictment that was brought against a Cabinet officer—the first offense of its kind during my time in public life.

We have the counterpart of it in the State of New York. How much attention has been paid to our great natural resources? I think New York State is the greatest in the Union in natural resources. In 1922, in the fall after the election, our political opponents at Washington held a meeting with their landlords, and they gave to a private corporation a valuable tract of land in the Adirondack Preserve. There was some question as to the ownership, it is true, but the State's claim was not as good as the private company's, and our Republican friends passed up the State's interests and gave 650 acres of land into the hands of the private corporation; and, in the words of our good old friend Ned Harrigan, in his old-time comedy, they said, "Here, take it, and keep it forever."

So the same question arises, as far as the State is concerned, in the development of our water power. I could stand on this platform and talk to you about water-power development and its history, and the abuse of power in connection with it, until tomorrow afternoon at three o'clock. But I can sum it all up in a very few words when I say to you that the difference between the two contending parties in this State is, shall this power be developed for use by the State itself for the benefit of its own people, or is it to be leased or given away to private monopoly for private gain and private profit?

Now that is all there is to it, and the man or woman who neglects to register or vote, by his or her neglect gives assent to the situation that now exists, and expresses an entire indifference as to what will ever be done about the great natural resources of the nation and of the State. The man and woman who will not register or vote must put the stamp of approval upon the manner and method by which Newberry found his way into the United States Senate—as black and as dark a page as will ever be written in American history, because his presence there by bribery and corruption, for which he was afterward convicted, gave to the Republican party the power to organize the committee and put old man Lodge from Massachusetts at the head of the Committee on Foreign Relations, and gave him the opportunity to bedevil the administration from one end to the other.

The man who will not register or vote must put his stamp of approval upon the conduct of the Veterans' Bureau as administered by Forbes. Who is Forbes? Where did he come from? What is he? Who knows anything about him? As far as his personality is concerned, I dismiss it with a wave of the hand. I look squarely into the eyes of the leaders of the Republican party, and I say to them: "We never heard about him. We do not know anything about him. You pro-

duced him, and you put him upon a sacred mission, and you put behind him countless millions of dollars of the people of this country, to perform a duty, to discharge as best we could our obligation to the men who offered their lives in the time of trouble."

We have had a sample of it in our own State. In 1920 a committee came to Albany to talk to me about a Veterans' Hospital. We passed a bill appropriating three and a half million dollars, and the Federal Government promised to meet it, for the care and relief of soldiers that were mentally ill, as a result of the awful conflict. I left Albany on the first of January, 1921, and I found, after I had become a New York truckman, that the three and a half million dollars had been appropriated, or reappropriated, rather, for another purpose, the erection of a civilian hospital at Creedmoor, as a branch of the Brooklyn State Hospital. And I found that the reason for the reappropriation was the fact that the Federal Government failed to make good its end of the bargain. It failed to make good because Forbes, representing the policy of the bureau of which he was the head, was not interested in the honest expenditure of public money. He had some other notions about it.

However, it is all right, it is all right. When I got back there in 1923, I picked up the broken strands where I had left them; we are going to have the Veterans' Hospital, and I turned the first sod of ground for it at Kings Park on the Fourth of July, 1924. And they are going to get that relief, thanks be to God and the taxpayers, without any help from Washington.

Wait until I tell you what General O'Ryan said about Forbes. General O'Ryan said, "He was the leading actor in an established conspiracy to defraud the Government." How can any man become the leading actor in any conspiracy without the approval of the manager? How can a man get



a leading part in any great performance without first consulting the man who is running the play?

Now, at the end of it all, what are we told? What do we find? We find in Washington an absolute lack of leadership—nobody can deny that. I would be the last man in the world to be unfair to anybody. If the President of the United States stood up and made a good, honest-to-God battle down there, I should feel like—well, at least, not saying very much. But he did not do it. Anything that he suggested, the leaders of his party in both Houses of the National Congress sat up all night trying to see how they could stop. When he suggested one plan of tax reduction, they brought in another. When he suggested a certain solution of our foreign relations, the Senators found a different plan. When they passed in both Houses of Congress a bill to relieve the underpaid postal employees, he vetoed it. He told them he had certain ideas about the Japanese Exclusion Act; they did the opposite, and he accepted it. In fact, whether it helped them or whether it did not, whether it meant anything to them or whether it did not, all he had to do was to say to the newspaper men that it looked like a fine day, and the rest of the party did what they could to bring on a rain-storm.

And after it is all over, and we arrive at this critical stage, what do we find? What did Butler say? Butler says, "Why, there is nothing to it. Forget it. Boys will be boys." And when the program of silence is finally established, something else must find its way into the newspapers. The candidate must be kept before the American people, not by anything that he says, so we will rig up a little Republican press-bureau stuff, and what do we see? The seventeen collarless neighbors that work up on the old farm—back to the old molasses. And in order to establish beyond doubt that there are some human qualities in our candidate, of course, we are



told that when one of the collarless neighbors fell into the cellar, he said to him, "Did you hurt yourself?" And when the neighbor said, "No," in order to prove that he had a proper understanding of real human things, "Well," he said, "you might have."

And in answer to all of this record, and in answer to all of the charges that have been made, and also in the absence of any definite fixed program for the future, we have the old sap bucket, one hundred and thirty-two years in the family, as a lesson in conservation. One sap bucket for one hundred and thirty-two years of use. And to make it more interesting, presented to our genial friend, Henry Ford, who, if I understand him right, will probably keep it for another hundred and thirty-two.

Now, I made up my mind, when I came here tonight, to say a whole lot to you about the State.

Wait a minute. I think I will hold it back and save it for my speech of acceptance which I am to deliver in Schenectady on Saturday night.

It won't make any difference how much time I put into it, and how much detail I go into, because, after all, it could be summed up in a very few words, and be understandable to every man and woman in Madison Square Garden. It is this. The Democratic administration in Albany in the last two years from the Governor down to the State engineer has given to the people of this State an understandable, an intelligent, an honest, and a progressive administration at less cost than their Republican friends. We have taken account not alone of the material things of government, that cold-blooded routine work that goes on from day to day, but we have put some human touch into it.

We have taken care of the poor. We have built new hospitals for the sick and for the afflicted. We are taking care of

the crippled and deformed children, as they never were taken care of before.

We have rehabilitated the Labor Department. We have advanced the Workmen's Compensation Act and made it more responsive to the needs of the injured men and women engaged in industry in this State.

We have brought about prison reform. We have put the cloak of the State around the prisoner and made an effort to rehabilitate him and make him fit to go back into society to be a benefit to it.

Let me warn you tonight, do not fail to register, so that you can vote. Because, as sure as I am on this platform, in the next month you are going to see as clearly through the thin veil of the Republican bunk that you are getting today and that you are going to get, as I can see through it. And you will regret it for many years if you fail to put yourself in a position to be able to express your choice when Election Day comes around.

Feeling that that duty rests upon you, I put all the emphasis that I can on the word *duty*. It is your duty.

But before you register, and for you to remember from now until election, I just want to read to you a short, three-line extract from the speech of our candidate for President, delivered at Clarksburg, West Virginia, that to my mind says the whole thing: "We promise to all men alike an honest and an impartial and, as far as human wisdom will permit, a just government."

If every man and woman entitled to vote and eligible to vote will read that whole speech and will lay particular stress on the lines I have just read, you may rest assured that with your help, straightforward, honest, intelligent, and progressive government will be restored in Washington and retained, as I know you want it to be retained, at the capital in Albany.

*The Cooing Dove*

This speech was delivered in Albany on October 23, 1926, during the gubernatorial campaign. It represents one of the Governor's methods of taking advantage of an opening made by his opponent, through a vulnerable phrase around which he weaves his entire argument.

I will take for my text tonight an extract from a speech recently made by Congressman Mills in which he said: "If I am elected Governor, I will get along with the Legislature like a cooing dove."

Let us look back a little into the history of the State and see how many Governors played the part of a cooing dove in their dealings with the Legislature; see what happened to the State when they did and when they did not.

Theodore Roosevelt did not play the part of the cooing dove. He played the part of the chief executive of the State. He laid his requests before the Legislature and backed them up with all the force and power that he could bring to his command. Had he been the cooing dove, the legislative leaders would have forced upon him the appointment of incompetent people. Had he played the part of the cooing dove, he would have sat quietly by and permitted the Legislature to defeat his proposal for the taxation of special franchises. His fight with the Legislature on that subject is a matter of State history.

Let us look into the administration of Governor Hughes. Surely, the Congressman would not hold that Governor Hughes played the part of a cooing dove. If he had, there would have been no legislation setting up the Public Service Commission and, consequently, no control over the public-utility corporations. It is a matter of history that Governor Hughes, far from playing the part of the cooing dove, went

around the State and appealed to the people to sustain him in his argument with the Legislature for the suppression of gambling and called extraordinary sessions of the Legislature for the purpose of compelling the Legislature to act upon his suggestion. He was not playing the part of the cooing dove when he bitterly fought both houses of the Legislature, under the control of his own party, in the interest of primary ballot reform and short ballot. He was not playing the part of the cooing dove when he called on the Senate for the removal of a man whom he deemed to be unfitted for the post of superintendent of insurance, only to be defeated by a Senate, the majority of which belonged to his own party. It was because he did not play the part of the cooing dove that the people of this State in 1910 were so thoroughly disgusted with Republican misrule in the Legislature that the State went overwhelmingly Democratic, electing not only a Democratic Governor but a Democratic Legislature in both branches.

Governor Whitman did not always play the part of the cooing dove. He did not play it when he sought to eliminate useless patronage in the various taxing departments of the State and to consolidate them into one. In this attempted reform he was defeated by the Legislature of his own party, who desired to keep the patronage in the hands of the comptroller. However, when he did play the part of the cooing dove, think of what happened to the State. While in that rôle, the Legislature put over the direct-settlement clause in the Compensation Law, which gave the insurance companies the power to deal directly with injured men and women; and Congressman Mills himself was the great driving force behind that amendment in the State Senate. While playing the rôle of the cooing dove, the Legislature succeeded in ripping and tearing apart all the great departments of the State government for patronage purposes and, not content with that,



created numerous new boards and commissions for the same purpose. While Governor Whitman acted the rôle of the cooing dove, the Legislature destroyed the Hughes Water Power Act and made it ineffective for the purposes for which it was originally designed.

In 1919 and 1920, I was Governor. It is a matter of history that I did not play the part of a cooing dove. If I had, there would have been no amendment to the Constitution for the reorganization of the government. There would have been no rent laws for the protection of tenants threatened with dispossession during the housing shortage throughout the State. There would have been no repeal of the direct-settlement clause in the Workmen's Compensation Act that was defrauding injured men and women out of half a million dollars a year, according to the report of a special commissioner appointed to investigate the whole question. Had I gotten along with the Legislature like a cooing dove, I would have written my name on the infamous Lusk Laws that questioned the devotion to this country of our great army of school teachers and subjected our private schools to examinations for license before they could operate. Had I played the rôle of the cooing dove, I would have agreed to the repeal of the Direct Primary Law and I would have signed, instead of vetoing, millions of dollars of local appropriations not made in the interest of, or for the benefit of, the State but made for the benefit of prominent legislators in the localities from which they came.

Governor Miller arrived in the Capital city in 1921. He played the rôle of the cooing dove, and the infamous Lusk bills became law. The Labor Department was again thrown into chaos by a ripper bill intended to secure for the Republican organization the patronage of that great department. The Public Service Commission Law was amended so as to take away from localities all control over their own contracts



with their public-service corporations. Governor Miller got along with the Legislature like a cooing dove, and certain members of the Legislature received large fees as a result of selling to the State the Black Lake Bridge in St. Lawrence County for \$68,000, when the supervisors of the county ten years before had refused to give \$18,000 for it and were sustained in their decision by the Court of Appeals. Governor Miller played the rôle of the cooing dove when he let the Assemblyman from Wayne County dip into the highway maintenance funds for the construction of a bridge over Great Sodus Bay against the policy of the State as defined by law. The cooing-dove act was played overtime when the superintendent of public works let a contract for the construction of the power houses on the canal on a cost-plus basis, which meant that the contractor could not lose.

The Governor and the Legislature were like cooing doves in their desire to get political credit for a low appropriation bill, although to accomplish it they were compelled to neglect the known wants of the State. They neglected to make any appropriation whatever in 1922 for indemnities to the owners of slaughtered tuberculous cattle. They made inadequate appropriation for the repair and maintenance of existing improved highways. In the interest of a so-called economy, they continued paying rental of \$45,000 a year for the State Police Barracks which could have been purchased, and were afterwards, for \$480,000. They purchased a piece of land adjoining the State camp at Peekskill on the installment plan, and, spread over a period of years, they were to pay \$44,000 more than the land could have been purchased for in cash. They neglected to the tune of more than half a million dollars to make adequate appropriation for the repair and maintenance of the State's equipment on the canal system. They crippled the Labor Department by cutting its appropriations in half. They neglected to the sum of \$710,-

ooo to make adequate appropriation for the construction of the hydroelectric plants at Crescent Dam and Visscher's Ferry. They made absolutely no appropriation for grade-crossing removal but did, contrary to accepted custom, appropriate \$175,000 for a special grade-crossing elimination in the city of Jamestown. It is impossible to escape the conclusion that this was done as a matter of local favor.

As a result of the cooing-dove performance, the hospitals of the State were neglected to such an extent that two of the hospital commissioners were compelled to resign because, according to their statement, the amount of money appropriated for the care, comfort, and cure of the unfortunate insane was totally inadequate. As a result of the cooing-dove performance, the appropriation for the Soldiers' Memorial Hospital at Kings Park was transferred and the Memorial Hospital delayed until I returned to Albany in 1923.

Had I played the rôle of the cooing dove for the last four years in Albany, what would have happened? There would have been no reorganization of the State government brought to a successful conclusion, after the Legislature and its Republican leaders did every human thing they could to stop it. Had I gotten along with the Legislature like a cooing dove, there would have been no rehabilitation of the Workmen's Compensation Commission and the Department of Labor. There would have been no amendments to the Medical Practice Act in the interest of the public health, because I had to fight for them for four years before they were finally written into the statute books in 1926. There would be less generous support for the public school system of the State were it not for my fight with the Legislature on the Rural School Bill, which brought about the recommendation of the legislative committee for larger quotas to the school districts of the State to provide better salaries for school

teachers. If I had pursued the cooing-dove policy, nothing would have happened in the housing situation. Had I gotten along with the Legislature like a cooing dove, the Adirondack power grab would in all human probability have become law. Had I gotten along with the Legislature like a cooing dove, there would have been no automobile regulation. The Republican Assembly defeated it in 1923 and under the force of strong public opinion was compelled to enact it in 1924, but they left the State without its protection for a full year.

When the Legislature convened on the first Wednesday in January 1925, it was made apparent to the people all over the State that the leaders intended to fight. They regarded my election in the fall of 1924 by an overwhelming plurality as something of an accident. It must be fresh in the minds of the people that the lieutenant governor himself made the statement that I dared not leave the State. They started in before the Legislature convened in a spirit of open hostility to the executive and continued that hostility in spite of my public invitation to them to coöperate with me in the interest of the great reforms in the government for which I was fighting. Had I been a cooing dove, there would have been no tax reduction, although the platform adopted by the Republican Party at Rochester in 1924 specifically promised it. It must be fresh in the minds of everybody that the Republican leaders on Capitol Hill in the spring of 1925 fought to the death to prevent tax reduction and did it upon the senseless ground that they did not desire a Democratic Governor to have the credit for carrying out their own platform pledge.

Were it not for my vigorous stand, there would be no provision for grade-crossing elimination looking to a speedy elimination of death traps throughout the State. There would be no provision for bond issue to complete uncom-

pleted construction and to give the State the necessary funds to rehabilitate the State hospitals and charitable institutions. This was fought, even after it passed the Legislature under the fire of well-directed public opinion, by the leaders of the Republican party throughout the State. In every Republican county it was overwhelmingly defeated. Congressman Mills and former Governor Miller, challenging me to debate it in New York and Buffalo, turned all the strength of the Republican machine against it.

Had I gotten along with the Legislature like a cooing dove, the State would have no office building and would have to wait years and years for the completion of the Teachers' College and the State Laboratory. Had I gotten along like a cooing dove in 1924, the government of this State would have cost the people upwards of eleven million dollars more as a result of pork-barrel bills passed by the Republican Assembly tending to extend the influence of the party in various sections of the State.

In 1925 we would have lost \$10,826,781.04 by the same process. What has Congressman Mills to say about these figures? This is not the first time I have given them out since the campaign opened. He is strangely silent about them. All over the State he is talking the economy of the Republican party and the extravagance of Governor Smith. How does he get away from the clear fact, the figures of which can be found in the office of the comptroller, that had it not been for me in one year alone the Republican majority in the Legislature would have increased the cost of this government by more than ten million dollars, all for purposes not needed for the actual operation of the government? Until he makes some definite explanation of what I here set forth, he ought to stop talking about Republican economy. There is no such thing. They do not know what it means—and those that have any knowledge of it hate it.



One of the greatest reforms in the government of this State now pending is the executive budget. I had to fight the Republican Legislature to the death for that reform. The legislative leaders followed me all over the State making misstatements and false representations. There was no cooing-dove performance about that—if there had been, the people of the State would be denied indefinitely the benefits that will flow from its enactment into constitutional law.

In order to provide proper nursing service and number of attendants in the State hospitals, I had to use all the force that I could bring to my command to put into action the report that came from Dr. Pierce Bailey and Dr. Biggs, who said among other things that the ward-service shortage in the State hospitals was due in great part to the low wages paid by the State; and both of these eminent authorities said that if the State is to give the service it should to the unfortunate wards of the State, the salaries of the nurses and attendants should be made adequate. The work of caring for the insane requires such patience and skill that it should be sufficiently paid for. Carrying out that recommendation cost the State \$1,120,000. Had I got along with the Legislature like a cooing dove, the right kind of nurses and attendants for the proper care of the unfortunate insane would not be forthcoming.

It is a matter of history, because I spoke of it at great length over the radio from the Assembly chamber, that had it not been for the vigorous fight that I put up the State of New York would be deprived of some very advantageous spots for parks and parkways. Had I pursued the rôle of the cooing dove, the owners of the wealthy estates on Long Island would have driven what they call the rabble of New York into the middle of the island and deprived them of the advantage to get near the water. As matters stand, they succeeded with the help of the Republican leaders in delay-



ing, at great cost and inconvenience to the State, the fulfillment of the park program by one full year, thereby defeating the will of the people expressed by over a million majority when they voted the bonds for park purposes.

Had I played the rôle of the cooing dove there would have been no statutory consolidation of the scattered activities of the State pending the submission of the constitutional amendment. As it was, the Republican leaders by the brute strength of majority control in the Assembly in 1923 and 1924 and in both houses in 1925 and 1926 defeated, as they said they would, every proposal to consolidate departments when it interfered with Republican patronage.

It is known to everybody in the State of New York from Montauk Point to Niagara Falls that I am no cooing dove, and what is more I never will be. Everything I ever got in this world I had to fight for. I did not have it handed to me on a gold platter. Congressman Mills' Campaign Committee classed me with the great majority of the people in the State who had to either work or starve. The same advertisement says that Mills did not have to work. He can essay the cooing-dove rôle if he likes; I am unable to do it. While I am at the head of the government in this State, I will continue to fight for what I think will be in the best interests of the State and all of her people. I fought with the Congressman a year ago and licked him and all those he was able to muster to aid in his campaign. I think I am entirely within the truth when I say that it is because I have vigorously fought for the betterment of the State government, for the protection of our wards, and for the benefit of all our people that I have spent more years in the executive office than any Governor since the days of DeWitt Clinton. The people of the State of New York want clear-headed, strong-minded fighting men at the head of the government and not doves. Let

the doves roost in the eaves of the Capitol—not in the Executive Chamber. So much for the doves, let us pass them up.

*Speech at the Metropolitan Opera House at the Conclusion of the 1926 Gubernatorial Campaign*

The speech of Governor Smith at the Metropolitan Opera House, New York City, on October 29, 1926, was the last in the campaign, and summarizes in unconventional dramatic dialogue all the issues of that campaign.

I will take for my subject tonight "The Republican Dilemma, or Looking for an Issue." The Republican party at the opening of this campaign found itself in a peculiar position. For the first time in thirty-five years a Democratic governor had been elected to succeed himself. At no time during his administration did he have a Legislature of his own political faith to support him. By some peculiar process of reasoning, the active leaders of the Republican party conceived it to be their duty during that time to prevent the Governor from accomplishing any constructive reforms for the betterment of the government of the State or its people. It was their theory that he was to be in the Executive Chamber at best only a short time, and if they could weather the storm for a few years, they would have an issue in lack of performance on the part of the Democratic executive. This peculiar attitude on the part of the active leaders of the machine could not be defended by the leaders of thought in the Republican party because most of them were with me on a great many of the constructive reforms that have taken place during my administration.

Because of this unique situation, they had difficulty in making a nomination for Governor this year. However, when they finally determined upon Ogden L. Mills, they started to seek an issue upon which he could appeal to the

electorate. From this platform tonight, I am going to give you a word picture of what would have to take place if the conference to seek the issue were held upon the stage of this Opera House, with this audience listening in on the deliberations.

We have the machine leader, and we have the leaders of the Legislature of the Republican party taking part in the conference. One member of the conference from the southern part of the State, not familiar with the Albany history and record of the last four years, says: "The one great outstanding issue is economy in the operation of the government. The appropriation bills have materially increased under the administration of Governor Smith. Let us make economy the overshadowing issue of the whole campaign." Whereupon, one of the legislative leaders says: "Wait! We shall have some difficulty in developing that as an issue and sustaining it in debate. It must be borne in mind that the Republican party has been in control of one or both branches of the Legislature all during Smith's administration, and the boys and girls in the high schools of the State know that the appropriations for the support of government to the last five cent piece originate in the Legislature. What are we going to say to the people about our responsibility? What item can we point to in the appropriation bills as not being needed for the proper conduct of the State's business?"

Another legislative leader speaks up and says: "Yes, it is a little worse than that. Lay off the economy as best you can, because Smith will be able to show by the books of the State comptroller, a member of our own party for the last two years, that we sent bills down to Smith for twenty million dollars that he did not accept and we are unable to show that, by his veto, he has retarded or delayed any necessary work on the part of the State." One of the New York City leaders speaks up and says, "What kind of bills could

these be?" "Well, you know our members in the interior part of the State and in the northern part of the State are constantly elected and reëlected upon a promise that they are going to get State money for some local and private improvement. Smith has a record of preventing the use of the State's money for these purposes and we cannot win that debate with him." There is a dejected look on the faces of the leaders for a little while and they say, "I guess we'd better stop talking about economy."

Another man speaks up and says: "Well, the Republican party is asking for a great deal of credit for tax reduction in Washington. We promised tax reduction in our State platform of 1924. Why not make tax reduction the big, all-powerful, and overshadowing issue of the campaign?" Whereupon one of the legislative leaders says: "Look out now. Go carefully on that. We made a terrible mistake in 1925—a terrible mistake. We actually opposed tax reduction. We questioned the Governor's figures when he said it could be done. We went to the point of saying there could be no tax reduction without impairment of the State's surplus account." And one of the legislative leaders looks over to another and says: "Don't you remember that night in 1925 when we sat up until four o'clock in the morning, looking around for more items to put into the appropriation bill for the purpose of making tax reduction impossible? Don't you remember the argument we had about the two and one half millions for the Johnson Iron Works, and don't you remember I told you Smith would say we were anticipating a verdict against the State in the Supreme Court before it could be handed down? What did we do? We built up items aggregating thirteen million dollars, and exactly what I predicted at that all-night conference happened the next day. Smith went on the radio. He took our financial statement and blasted it to pieces. You know what you heard when you



went home over the week-end.' You remember the wagon load of letters that came to the Capitol addressed to you by your constituents from all over the State? Ask Lowman what happened to him when the letters were written to him. We lost out in that argument. We should never have gone into it. It was stupid at best. Smith won that fight because a majority of the people of the State were with him and believed he knew what he was talking about. We were playing politics." "Yes," says another legislator, "tax reduction actually took place and we were forced into the ridiculous position of reluctantly doing something that we promised to do in the party platform in 1924. The income-tax payers and even the realty-tax payers were relieved. Smith got the credit and we got the abuse. Look at this year. In spite of all the talk there is about extravagance in the Smith government, what did he do this year? He returned over thirty million dollars to the taxpayers—to our farmers in the country and our small home-owners in the city. Real estate has been relieved and the income-tax payers have been relieved, and he is able to point to a surplus unencumbered in the office of the State comptroller in excess of fifteen million dollars." There is a chorus: "Lay off tax reduction. That is the worst thing you could use for an issue. We were absolutely foolish, stupid, and silly about it, and there isn't one of us would take the course we did take if we had it to do over again. So you'd better lay off it."

That is a crusher. By this time the leaders of thought are getting a little bit upset and they say, "All right. Tax reduction and economy are two very good issues we cannot well talk about. What about the development of water power? There seems to be, in view of all this talk about superpower and mergers of power corporations, a nation-wide interest in the question of the development of electrical energy from water. The recent coal strike with the attendant hardships



tended to bring it back strongly to the American mind. Why not make that an issue?"

And one legislative leader says: "Now, wait—hold your horses on that for a minute. Under the law as it now stands, our party has had it within its power to carry out our platform pledge of 1924 on water power, but the fact nevertheless remains, and Smith will undoubtedly be able to point to it, that we did nothing about the development of water power except talk about it. Worse than that, Smith had a definite plan and it was a well-thought-out plan. It is along the progressive lines advocated by Theodore Roosevelt and by Governor Hughes. Smith submitted his plan, and we defeated it. We can find no fault with Smith's plan because our own party is adopting such a plan in Washington for the possible water-power development on the lower Colorado River."

One member of the conference speaks up and says: "Just what did we promise to do? What did we say we would do about water power? We said we would lease it to private individuals for a term of fifty years in order that they might privately develop it for their own gain and their own profit. What did Smith want done? Smith wanted the water powers of the State developed by the State itself under a Water Power Authority, precisely as we are developing the port of New York, so that these great and valuable resources may be held in trust by the authority for the people of the State of New York and never get out of their control for a minute, not to speak of fifty years."

There is a deadly silence for a little while and the members of the conference are looking at each other. The silence is finally broken by one of the conferees who says: "Wait! There is another and a greater reason why you had better keep off water power. Congressman Mills and his family are interested in water power. His father is a director in the

Niagara Falls Power Company, one of the biggest subsidiaries of the Northeastern Power Company. Machold, our former Republican Speaker of the Assembly, is the head of the Northeastern Power Company, and all during the water-power debates of 1923 and 1924 Machold was the bitterest enemy the Governor had, only to have it afterwards disclosed that he has a personal interest in some of the water powers in the northern part of the State that are going to be hooked into the combine."

One of the conferees says: "Besides, this water-power issue is unsafe. Something may happen in a public way before the campaign ends that would disclose the interest of the family of the candidate in these possible water-power developments."

Now I will step out of the conference for a minute and we shall see what has happened. On October 29, yesterday, in an advertisement in the *New York Times*, the International Paper Company, of which both Ogden Mills and his father are directors, is in the market to borrow twenty-five million dollars for water-power development, and its prospectus to attract investors says: "The International Paper Company with its subsidiaries is the largest manufacturer of paper in the world and one of the largest holders of water power in North America." So the man who makes that prediction in the conference apparently knows what he is talking about. It is borne out by this advertisement of October 29.

One member of the conference speaks up and says: "Well, if that is the case, let go of water power. You cannot make that an issue in the campaign. It is a matter of great regret that Smith isn't in the position that Mills is, on that."

By this time the best minds of the Republican party are somewhat puzzled and from the conference repeatedly comes the question, "Well, what is the issue?" Finally, another man

speaks up and says, "Is it not possible that with all the talk we have had in our State platforms about our devotion to the workingman and our desire to better the conditions under which the men, women, and children are working in this State, is it not possible that we have something of a real record on labor to point to, after all we have said about it?"

This statement is followed by a dead silence, and uneasiness is seen to develop through the whole conference. Finally one legislator speaks up and says, "You cannot mention our labor record. One of the blackest marks on our whole record is our deliberate and willful denial of the platform pledge that we made definitely and concretely at Rochester when we promised the women workers of the State that we would give them a maximum forty-eight-hour week. Worst of all, one branch of the Legislature passed it, and when it passed the Senate it went down to defeat in the Assembly, and it went down under circumstances that we cannot talk about too much because another issue will come in if we do."

Then another says, "Is it possible that nothing at all was done?" Another speaks up and says, "Nothing was done, and because nothing was done we appointed a committee to investigate it. That committee is out now, and we cannot talk too much about that committee because the chairman was repudiated by our own party even in his own city. Lay off that!"

"Listen," says another fellow, "wait, there is a greater reason. It is not only what we have promised to do and not done, but what we have done to hurt labor. The candidate's record on that is not so good. He was one who voted 'Yes' on the direct settlement clause of the Workmen's Compensation Law, and in 1923 the commission appointed by Smith showed us clearly that the working men and women throughout the State were defrauded more than half a million dollars a year because of the activity of our candidate in 1915.

Let labor alone. We have ducked it in the platform. We have gotten away from it there. Don't let us mention it at all."

Another member of the conference says, "Are there no welfare measures that we have done anything about aside from the amendments to the factory laws?" "Well, there is child welfare, but it is not safe to talk about that because the one great big thing that can be done in this State for the benefit of the widows and orphans is for the State itself to make some appropriation of its money to encourage the localities to carry on the work. Smith has repeatedly recommended this, and we have repeatedly defeated it."

Another member of the conference speaks up and says, "There is one subject on which I am satisfied the Republican party must be right and that is the education of our children. What has our attitude been to education?" One of the legislative leaders says: "Well, we have a broad, general statement in the platform indicating our devotion to it; we have given it a lip service, but the record is not any too good. You know we made a terrible mistake this time two years ago when we charged Smith with the attempt to Tammanyize the Department of Education. We were ridiculed from one end of the State to the other, and even the newspapers supporting our party said it was a cheap, mean, political campaign trick that the Republican party ought to be above. You ought to forget that, at least that phase of it."

"What about all this talk of bettering the condition of public-school teachers? We have something there on Smith, have we not?" "We may be able to say something in the campaign about it, but I do not think we can say anything here," is the answer. "Smith followed up a recommendation made by one of our own legislative committees that the subject of school finance required study. He appointed a commission of experts to study the whole question of taxation as it relates to education. He asked for an appropriation



to finance the commission and we refused to give it to him. It was afterwards financed by Colonel Friedsam, and when the Friedsam Commission made its report some of your leaders from New York messed into it, and politics befuddled and beclouded the whole situation. We were induced to defeat the bills that came from the Friedsam Commission which would have put the localities in the position of increasing the teachers' salaries. Worse than that, we were compelled to break our agreement with the Governor that we would not pass any salary-increase bills, in order to let you people in New York City play politics, when we sent down to him a bill increasing teachers' salaries in the city of New York after we refused to give the city the wherewithal to do it."

One of the conferees speaks up: "I realize that what you men are saying is right, but there is another angle to it which you are forgetting, and that is that the prominent educators in the State are with Smith on his educational policies. He has increased the appropriation to the Department of Education from eight million dollars where it stood when he first reached Albany to fifty-eight million dollars this year."

And so the Republican party is obliged to drop a pet issue it has cuddled to its chest for a quarter of a century because it is not right on it.

Then one member of the conference grows impatient and clearly indicates his impatience by pacing up and down the floor. He says: "What about the constructive side of Smith's administration? It is true that under Smith we have had a reorganization of the government. We have started the machinery for an executive budget. We have bond issues for the rehabilitation of the State hospitals and completion of our public works of all kind. We have had a bond issue for parks, a bond issue for grade-crossing elimination in the interest of the preservation of life, limb, and property. Is



not the Republican party entitled to say something for itself affirmatively on these issues? If we cannot get anything on Smith, let us praise ourselves for what we did." Comes a shout from every legislator present: "Stop, do not bring those things up at all. We went too far on those. The real facts of the matter are that we opposed every single one of these bond issues and Smith drove them across by traveling all over the State and educating public opinion about them. We even sent some of our legislative leaders out to talk against them." Another man says: "Be careful; don't say anything about parks at all. You never want to talk about parks. Not only did we make every conceivable effort to delay the park program and hold up the improvements for a year, but even our own candidate, Mr. Mills, did every possible thing he could in league with other millionaires on Long Island to obstruct the park development down there."

By this time the conference is groggy, and then some one says: "How about this wet and dry question? The people of the State must be paying some attention to it. There is every indication that there is a wide-spread interest in that all over the country. How do we stand on it?" Following this question there is silence and a little uneasiness, and one fellow says: "I guess we have to stay where we have been for the last eight years. We have got to stay on the fence. We cannot drop into either yard. We better stay where we are and talk nice and dry to the boys out in the country and the other way to the fellows in the cities. Do the best we can with it. We have tried to please everybody. We have given the Wets a Senator, and we have given the Drys the lieutenant governor. Let Lowman take care of that. He can go around to all the meetings in the country and talk about the wickedness of Smith and Tammany Hall, the immorality of the city of New York, its disrespect of the Sabbath, and the ignorance of its great foreign-born population, but keep him out of

New York City. Do not let him come down here. Even the candidate's own newspaper, the *Herald Tribune*, said in an editorial, 'No Republican ought ever to vote for him again for any office.'"

"Well," one of the boys says, "the Republican party must adhere to some principle on this question. It is not possible we have gone so far backwards that with the brains and ability of the men in our party we are unable to make something fundamental out of it." One of them speaks up and says: "Do not speak about any principle on this subject. We are compelled to do what we have been doing for the past eight years." "Well, what is that?" "Why, ducking it, side-tracking it, double-crossing it. There is nothing else that we can do. We have started that way and we have got to finish that way."

"There is always one last hope for the old dilapidated machine; there is always one hope," says one man who has known politics in this State for the last twenty-five years. He speaks up and says, "What about Tammany Hall?" and they all burst out laughing. It is a joke even to themselves to think they are rattling the bones of that old skeleton that they have been trying to use for a quarter of a century.

The Tammany issue is laid aside when one of the legislators in a burst of frankness informs the conference: "Every Democrat from Tammany Hall as well as from every part of the State in the Legislature voted right, voted with Smith, voted with the majority of the people of this State, voted consistently for the public interest and for the public welfare on all these great issues while we were stupidly opposing them. Don't talk about Tammany, you can't get it across."

At this point it becomes the unanimous decision of the Republican conference that there is no issue that can be used against Smith or resolved in their favor, and the con-

ference breaks up. Before quitting, however, they express great surprise that Smith can have been on the right side of all these questions for the last four years and the active leaders of their party in Albany so persistently and so stupidly on the wrong side.

It is the consensus of opinion in the conference, although not openly expressed, that inasmuch as Congressman Mills has been looking for this nomination for a whole year, they should let him develop his own issue, and so he sets out to develop it. Strange as it may seem, impossible as it would appear, for whom does he send to help him develop the issue? Let me show you. Look at this picture of candidate Mills which appeared in his own advertisement in yesterday's papers. The artist who drew that picture made a reasonably fair pen likeness of Congressman Mills. What is that black streak you see behind it there? The shadow of Mills? What is that evidence of a low brow? That is the sinister likeness of William Randolph Hearst, and the beginning of the negotiation is the retaining of Hearst's man, Watson, to write the campaign book, to prepare the campaign literature, to prepare the candidate's speeches with real, old-fashioned Hearst methods. And then all the great issues involved in the government of the State, everything of interest to all the people, all these are forgotten and thrown aside and beclouded. We have heard from the Congressman and from the editor politician nothing for the last month but milk. It might not have been a bad issue if the editor were right on it, but he isn't right on the issue. He isn't even honest with it, and he could not be because of his political association.

Watson prepared the Republican campaign book. The best minds of the party were ashamed of it. It was repudiated by the leader of Kings County. It was repudiated by the National Republican Committeeman from this State. It

was withdrawn from publication and the plates it was made from were destroyed.

Just as the campaign book fell to the ground, all the silly nonsense prattled about milk exploded within the last three or four days, and the candidate stands without an issue, just seeking office with the assistance of his friend, William Randolph Hearst.

No structure, no matter how well designed, no matter how well planned, can stand on a false foundation. Everything about it is wrong if it is not grounded on truth and honesty. Look at this advertisement. One of the most stupid things that has ever been done in a campaign; laughed at by people all over the State; ridiculed by men, women, and children. What does the advertisement say? "Al Smith like most of us had either to work or starve. Ogden Mills never had to work." I will stand on that advertisement. I will not go any further than it. It is true as to both of us. I had to work or I would have starved—not only myself but other people for whom I had to work would also have starved. I have no regret for it, and I wouldn't change places with Ogden Mills. I have gotten more satisfaction out of life than the man who did not have to work. I can look back over every year of my busy life, and every one was a happy one for me because I was working. I have worked hard. I have worked hard for the people of the State of New York, and if I had not worked hard, that conference that I described to you would have had the issues and there would be no occasion for the cultured son of an aristocratic family to go down into the mud-gutter and seek a companionship with the despicable Hearst.

I worked hard for the people of the State of New York on every phase of their government. I have given it every minute of my time, my attention, and every bit of energy I could bring to my command. I built it up on the business



side; I have also built it up on the human side, because I know what it means to work and I know the problems that the workers have to meet. These are the reasons why I am perfectly satisfied that on the first of January, 1927, I will start to work all over again for the people of the State of New York, with renewed zeal and renewed vigor, as the result of your expression of abiding confidence in me.



## THE DIFFERENCE BETWEEN THE REPUBLICAN AND DEMOCRATIC PARTIES IN NEW YORK STATE

This address, the last in a course of the School of Democracy, an institute of politics, organized by Democratic women in the fall of 1923, represents the Governor's use of history in exposition and his concrete personal method of expounding abstract principles. It was delivered in October, 1923, at the Town Hall, New York City.

I shall speak of the essential difference in this State between the two parties, as I have viewed it in my active political career, which dates back over twenty years.

Let us take up one at a time the great subjects of public interest and compare the attitude of the parties; and when I speak of this, I speak according to the record, and nobody can dispute it.

No. 1—*The Income Tax*. What is the record of the two parties? The income tax amendment to the Federal Constitution was submitted to the Legislature of 1910, then under the complete control of the Republican party. And what did they do with it? They rejected it. They were unwilling to say that great wealth ought to bear its share of the burden of government. They were unwilling to subscribe to the indisputable principle that he who benefits the most should pay accordingly.

Governor Hughes was then in office as Governor, United States Senator Wadsworth was the speaker of the Assembly, and the proposal to ratify the Federal Income Tax was defeated in the Assembly, which was under Republican organization in 1910.

You see how easy it is for me to issue the challenge, because I just quote history. It cannot be disputed. In the fall of 1910, a Democratic Governor was elected and a Democratic Legislature was elected, and in the spring of 1911 the amendment to the Constitution providing for the income tax was adopted by the State. There cannot be any dispute about that. Nobody will deny it—it is history.

What position would the country have been in in her hour of trial, in her hour of tribulation during the war, if she had been denied by the provisions of her own Constitution the power to levy an income tax against the people who could best afford to sustain the country? And so far as the record of that particular subject is concerned in this State, it is distinctly a Democratic achievement, as against a reactionary performance on the part of the Republican party.

No. 2—*Direct Election of United States Senators*. That amendment came to this State for ratification in 1911 and was bitterly opposed on the floor of both houses of the Legislature at Albany by the then Republican minority. It was adopted and the State of New York was put squarely on record for that progressive measure by the votes of the Democrats in the Senate and Assembly, against the forceful and vigorous opposition of the Republicans.

After some great constructive reform is achieved, there are always a great number of people looking for the credit. In view of the history, how can anybody deny to the Democratic party in this State the credit for putting the State of New York in line for enfranchisement of women? You know, there is a funny little history goes with it that I think I ought to tell you. I ought to go back a little bit—back further than the twenty years I spoke about.

Prior to 1894 there was nothing in our Constitution in this State prohibiting women from voting. It was in the election law, the statute law of the State. The Constitution

was silent on the subject, but the statute law, known as the Election Law, contained certain qualifications for voters, and among the qualifications was a provision that a voter must be a male. Roswell P. Flower was Governor, and there was a bill passed in both houses of the Legislature striking the word *male* out of the law. It came down to the Governor, and it lay on his desk for quite a little while. Wonderful pressure and wonderful influence were brought to bear on him, but he did not sign it; it was lost in what is known as the omnibus veto among thirty-day bills.

The following year the Republicans, in full and absolute control of the Constitutional Convention, took from that experience a warning, and it was they who wrote into the Constitution of this State the word *male*. It was the Republican party that by constitutional law for twenty years prohibited women from voting in this State. They were in power from 1894 right through to 1911, and during all of that period a proposal to amend the Constitution could never even be reported from the committee for discussion. When it was reported, it was pursuant to a Democratic platform plank which promised the people of this State that they would submit the question, and I was the Speaker of the Assembly who handed down the report of the Committee on Judiciary, offering to the people of this State the opportunity to pass upon this question.

Look at the returns of the election of 1917 and study out the political situation in the light of neighborhoods. It is a matter of fact, it is a matter of history that cannot be disputed, that the votes to carry the amendment enfranchising women came from the sections of the State that for half a century have been known to be strongly Democratic.

I have said in the course of political debate time and again that every big constructive reform in the government of this State was put through under Democratic auspices.

Let us prove it by dates and facts and by figures. Taking them, not necessarily in the order of their importance, let us study the history of the Workmen's Compensation Act. That policy of the State placed New York State in the very forefront of all the States in the Union which had a constructive, intelligent, and progressive Workmen's Compensation Act. Who passed it? A Democratic Senate and Democratic Assembly, and it was signed by a Democratic governor. Our Republican friends went through the motions of investigating the subject—a popular Republican pastime.

Investigate things, but don't do anything about them. Sometimes the report of the committee satisfies the clamor and the appetite of the people for a little while; but meanwhile another year passes over us, and as long as nothing happens everybody is happy. That is the characteristic stand-pat policy of the Republican party in this State. The Legislature convenes on the first Wednesday in January, and the Republicans are exceedingly happy if they can wind it up as soon as possible so that nothing happens.

It is a matter of history and of common knowledge that during the administration of Governor Hughes in this State the Republican party was torn from stem to stern in a bitter fight over whether the people would make nominations for office or the bosses would make them—and the bosses won. Governor Hughes left Albany on the first of September to take his place on the Supreme Court bench at Washington, and when he left the Capitol he said, "Thanks be to Almighty God."

He was not running away from Democrats. As a matter of fact, there were not enough of them up there to hurt him. But he was running away from a mess within his own party. They investigated direct primaries, and they talked about them. They fixed the appropriation bill so that the investigating committee would have the expenses of their trip



to the Western States paid by the State, whether the governor liked it or not. This brought about an interesting episode in the State's history. The Governor struck out the appropriation for the traveling expenses of a committee that was going to investigate whether or not the enrolled voters ought to make their own nominations. He struck it out of the appropriation bill, and then he heard that the committee was on its way and had actually proceeded. He sent for the deputy comptroller and he said, "Are these men paying their own expenses?" "I don't think so," was the reply. "Well," he said, "that's funny, because I took that item out of the appropriation bill." And the deputy comptroller said, "Well, you only took it out once, and it was in twice."

Which party gave to the people of the State a thoroughgoing direct primary bill—a primary bill that opened up the door of party to the enrolled voters and turned its machinery completely over to them? The Democratic party in 1913. It rested on the statute books until 1919. The first assault upon it was made while I was Governor, and one day there came down to me an amendment to the election law providing for the restoration of the convention system for the nomination of Supreme Court judges. So I sent for one of the Republican leaders, and I said, "What does this mean?" "Well," he said, "you know it's all right, Al, on these strictly political nominations, but when it comes to selecting judges of the Supreme Court, you know a few people can always do that better than the mob." "Well," I said, "that is just exactly in direct opposition to my notions about it; because if there is one official whom the people themselves ought to nominate as well as elect, it is a judge. If you brought that down to me and stated that with reference to an alderman or an assemblyman, there would be a chance for you, but the very reason you have given is the reason why I won't sign that bill."

Flushed with the great victory of 1920, carried away by that million, one hundred thousand, intoxicated with the notion and the thought that they had broken into the solid South, feeling that the trend of thought and public opinion was going to be their way for another generation to come, the Republicans went up to Albany and emasculated the direct primary bill and gave us back the convention system, not only for judges of the Supreme Court, but for all the officials running State-wide, and it enabled the Governor to take control of the convention and declare whom he would permit to run and whom he would not.

The Republican clamor against the fifty-four-hour bill for women engaged in industry was, "Industry will leave the State; it will go over into Connecticut and it will go over into Massachusetts, or it will go into Canada." They were unduly solicitous about manufacturers. We passed the fifty-four-hour bill. None of them left this State.

Another one was the bill that abolished night work for women. That statute was declared unconstitutional in this State in 1904 by the Court of Appeals, upon the theory that it interfered with a woman's liberty to contract for her labor. In other words, she can do anything she likes in the way of contracting to work. Why, nobody ever thought from that section of our Constitution—it is taken from the Federal Constitution—that liberty ever was intended to mean the liberty of contract, when that contract was against the public health or the public welfare. That kind of liberty meant the liberty of the person or the individual, as long as he lived within the laws, to move around and go wherever he liked and do what he pleased—if he violated no statute.

The same law, limiting the hours of labor, the identical one, was sustained in 1914, ten years after, by the very same court. In the opinion, the Chief Justice took occasion to mention that the court sustained its constitutionality because a

report from a commission of the Legislature laid before that body indisputable evidence that working in the night-time was injurious to the health of women, and the health of women was the greatest asset that the State could have.

The prohibition of women working in foundries, the one-day-of-rest-in-seven act—every one of these bills and every one of these laws was written on the statute books of this State by a Democratic Legislature and signed by a Democratic Governor. Did they remain there peacefully? No. It has taken real Democratic effort and real Democratic fighting in all the period since 1913 up to today to keep them there. The one-day-of-rest-in-seven has been compromised with so much that there is very little of it left.

An attempt was made even in 1920 to weaken the night-work law for women. And I remember it distinctly. A man from an interior part of the State that is made up entirely of farming communities, with practically no factories in it, introduced the bill. Some of the newspaper men came down to speak to me about it, and I said, "Well, it is impossible for me to imagine what he can possibly have in his mind. He forgets entirely that I am the father of this particular act, and that I put it on the statute books, so far as the lower house in Albany is concerned; and if he has an ounce of brains he ought to know that I would let this Capitol crumble around me before I would compromise with this principle in the slightest degree."

The Democratic party advocated a commission in 1913 that studied first, and afterwards proposed, the Child Welfare Act. We took a progressive step that has been followed by other States in the Union. We took the unfortunate child which had been the beneficiary of charity through institutional training and we provided a system whereby that child remained home with its own mother; she, instead of the institution, became the agency of the State to protect it. Did

that beneficent measure have Republican support or Republican sympathy? No, the Republican leader of the Assembly in arguing against it reached over the aisle to me and said, "What about the grass widows, and what about the children of the drunkard?" That was his conception of it. That was the Republican idea of it, and that it was paternalistic. If it is to be done at all, they said, it must be done as a matter of charity—not as a matter of State duty, which was the Democratic idea and the Democratic policy.

Somebody may raise the question that Democrats only thought of these things, that they did not think of business. This is not true. The present banking code was enacted by the Democratic Legislature of 1913. That has been time and time again referred to as the most progressive act of its kind probably in this country.

I am going to anticipate from the audience a very natural question—this question should, I presume, particularly come from our visiting delegates from other States. The question is this: If everything that you may say is true, how do you account for Republican success in a State like this? That is a natural question. I will answer it for you. The answer is this: The Republicans have a world of money, no end of it, and they can draw it from all the four quarters of the State by a single motion. And they know how to use it. They maintain in Albany a press bureau, and that press bureau circulates, broadcasts throughout the State, into all the newspapers, even to the very point of supplying the paper with the set-up type, ready to print.

We know the power of propaganda. Democrats know how it was used in 1919 in this country. I heard Dr. Wise from the platform of the Wieting Theatre in Syracuse make the statement that on the very day that Woodrow Wilson put his foot on French soil there was a newspaper of the Republican National Committee which started to discredit its own Presi-



dent at a great crisis in the country's history. There is no doubt about that, and what was published in papers in this country was suppressed in France. France had a greater regard and a greater respect for the leading representative of the greatest country in the world than the country itself had.

The Democratic party has the great numbers and the great crowd, but look how often they are led away from home by false stories that come as a result of paid propaganda, the result of actual payment in money to misrepresent. Nothing strikes as forcibly at the foundation stone of democratic government as a willful and deliberate misrepresentation of facts. A man who cannot win any other way has no place in the public life of this country; if he cannot win on the record and on the facts, he ought to stop. Because if you carry misrepresentation to its logical conclusion, in the final analysis it means that the greatest liar becomes the greatest man.

Something was said earlier in the evening about women being naturally Democrats. I think the twenty-year history of the performance of the two parties in this State could well be put forth as abundant reason for asking women to affiliate with the Democratic party.

In conclusion, summing up in a few words, and viewing that record, having in mind that history, it is just this: It is the point of view with which you approach a thing—the Republican party in this State by its history and its record believes that law in a democracy is some divine and eternal thing that is designed or prepared to protect money; whereas, on the other hand, the Democratic party believes that law in a democracy is the expression of that particular thing which does the most good for the greatest number and goes the furthest to relieve and to protect and care for the great mass of the people who, after all, make up the country.

## PATRIOTIC ADDRESSES

### *Washington's Birthday Speech*

The following address was made at an annual celebration of the Sons of the Revolution and Associated Patriotic Societies in commemoration of the birth of George Washington, February 22, 1923, at Carnegie Hall, New York City. It is one of the comparatively few examples of Smith delivering an oration as distinct from a controversial address or a talk with a practical end in view.

Mr. Chairman, Fellow Citizens, Fellow Americans:

I am somewhat at a loss to understand why I should be selected as the orator for an occasion of this kind, as, in the first place, I am not an orator. I have been accused of being a fairly good political debater, and I lay a claim to that, but as an orator on Washington's Birthday, I am afraid the committee didn't make the best selection they could.

They had in mind probably the thought that I should make this speech because the old district at the lower end of the island, which I represented for so many years in the Legislature, was really the scene of a great many of the activities of George Washington after the war. He said farewell to his officers in Broad Street in Fraunces' Tavern. He lived in Pearl Street near Franklin Square while waiting for the first Continental Congress to assemble, and it was at Wall Street on the steps of Federal Hall that he took the oath as first President of the United States, so I think, therefore, that I have some little right to claim him as a constituent of mine from a neighborhood and district standpoint.

I take it that the object of this gathering is not alone to recall the deeds and the history of the great Washington, but to reawaken in the minds and in the hearts of our people a devotion to the principles that Washington fought for. So, therefore, each recurring anniversary of his birthday gives us a lesson to spread broadcast not only among the people of our own country, but to the people of every land.

One great outstanding trait in the character and life of Washington that it would be well for all to copy was his devotion to principle, devotion to the thing that he believed to be right. In his time Washington was a rich man—as rich men went in those days. He had property. Surely his own selfish interest did not lie on the side of revolution! The outcome of that, to say the least, was doubtful. There could be no assurance given ahead of time of ultimate success, so that his fortune—if he thought of himself, if he was selfish about it—his fortune and his best interest lay with Great Britain. But he believed that the right is inherent in all people to have the kind of government they want, and in order to sustain that belief and in order to give vigor and force to that expression of fundamental principle, he threw his all into the ring and took a chance that such a government could be established on this soil, and that it could survive.

In the course of this he showed an unselfishness, and that unselfishness characterized his life and habits even after the war, because I think we can spell fairly well out of the history of that day that the monarchs of Europe expected Washington to set up a kingdom. Only recently has it been published in the paper among the memoirs of some of the secretaries in England at that time that King George himself said that if Washington did not set up a kingdom he would be the greatest man that ever walked the earth. In fact, history tells us that among his own generals it was

suggested that he set up a dictatorship and make himself the dictator. The reactionary notions of the monarchs of the Old World had no place in the thought and in the ideals of Washington. No dream of kingdom or of empire or of dictatorship was able to swerve Washington from the thought that he had in mind that the people should rule themselves; and he cast his lot with the signers of the Declaration of Independence, who, to put into force and effect that principle, pledged their lives, their fortunes, and their sacred honor.

Washington's life taught us a very salutary lesson in perseverance. When the clouds were the darkest, when the outlook was gloomy, when expressions of doubt were to be heard on all sides, aye, even within the ranks of his own army, Washington never gave up the faith that was in him, and he persevered to the end.

What more beautiful, what more inspiring passage is there in American history than the story of Washington and his army quartered at Valley Forge over the winter? Not only can there be taken from that passage a lesson in perseverance, but a lesson in humility, another great characteristic of Washington. Here he was shut out from communication with the rest of the world, quartered for the winter without the means of ascertaining directly or indirectly just what he was expected to meet, denied the information of what preparation the enemy was able to make. He persevered with characteristic humility.

The little picture in the history that shows him kneeling in the snow at Valley Forge praying for divine assistance has been an inspiration to every youth, not only in this country, but wherever it has been seen around the world. He didn't pray for victory, nor did he pray for disaster to the army of his opponents. He was meek and humble. He asked of Almighty God only that the Continental Army be spared



through the winter in order that they might make a final blow for American freedom and American independence.

All this, of course, spells out a trait and a characteristic of Washington that we could spend half a day talking about, and that was his intense devotion and his intense loyalty to this country. Washington by his every act and by his every example indicated that it was his thought and his belief that the man who would turn his back on his country would turn his back on his mother.

Related naturally to the birthday of Washington is another great holiday, the Fourth of July, the anniversary of the signing of the Declaration of Independence. The part of that document that we are particularly interested in is but a few lines: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the governed, that whenever any form of Government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new Government."

That simple declaration, in itself basically and fundamentally beyond the point of possible dispute, is after all only the expression of a strong and a firm political belief. How could it be made effective? Washington was interested in making it effective. As a document it was destined, as it did and will for all the ages to come, to burn itself down through the literature of civilization wherever it may be. But it has to be made effective. It is like an amendment to our own State Constitution that thereafter requires legislation in order that the people may get the benefit or the blessing that is intended to flow from that amendment. Washington knew that and he was the president of the first Consti-

tutional Convention, and the document that guarantees the liberty and the form of government promised in that Declaration of Independence is the Constitution of the United States.

Let us see what is in the preamble: "We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

Now you can read it from cover to cover and you will find that it is the safeguard of the liberty that Washington fought for and that was guaranteed to us in that Declaration of Independence.

What is liberty? Liberty is an elusive thing. It isn't a thing that you can lock up in the safe, turn the key and go away, and expect to find there when you come back. Eternal vigilance alone is the price that you pay for that liberty, and there devolves upon every citizen who believes in that Declaration and in the Constitution intended to give it force the obligation to conduct himself with that regard for his neighbor that his neighbor as well as himself may have the full enjoyment of the blessings of liberty that grow from a free republic.

We have men who have disagreed with these fundamental truths. We have our enemies. I divide them into two classes. I take the intelligent, willful enemy who is selfish, who has something to gain for himself—there are not so many of them, thanks be to the Lord, and we have plenty of law to take care of them. There is another class, and I put them into the general category of those who do not understand. We must expect to have with us a goodly number of that class at

all times, but we have the processes for educating them, and that document is so fundamentally correct, it is so difficult to quarrel with it, that after they understand they usually come around to the proper manner of thinking.

The man who doesn't want to be shown, who doesn't care to find out, is in a class by himself. All we can say to him is that if he doesn't like this country, if he doesn't like our form of government, if he hasn't any respect for that Constitution or does not believe that the declaration of principle set forth in the Declaration of Independence is correct, then he can go back to where he came from. It is not difficult at all for us to remind him that in addition to a Bureau of Immigration we have a Bureau of Deportation.

What better catechism could we put into the hands of a man that has his doubts about the ultimate rectitude of the purposes of this country than a copy of the life of Washington and of Lincoln? And after he has read it and understands the reward that comes for loyalty, let him read beside it the life of Benedict Arnold. Let him read out of that man's life that Almighty God Himself visited punishment on him on this earth, that he died despised even by the people who may have been the beneficiaries of his treachery, that he died bereft of his reason, alone in a garret in London. It is reported that he had a form of mania, very common, that led him to believe that all the world was against him, and it is reported that his dying words were, "Even the little children in their cradles had their tiny hands raised to heaven against me." That was the lot of the traitor on earth, and by comparison homage will be paid to the name of Washington and of Lincoln while there is any civilization left in any place in the world!

The thought on Washington's Birthday to spread among our people in this country, to my way of thinking, is that

this is our country. It belongs to us. We have the last word about everything in it. A majority of us can do anything any time we make our minds up to do it.

But from reading its history there is suggested to me another thought that I think should never be permitted to escape the attention of our people, particularly our youth, and that is, that this is God's country. History indicates to us that He kept it hidden behind a veil for centuries while the peoples of the Old World were at each other's throats for possession of earthly things, and when civilization had reached that point where it could best use its great natural resources, the bow of the Santa Maria pierced that veil so that the cross, the emblem of faith, might be raised on the island of San Salvador. Not only is that true, but it is also true that He has taken special care of it and has been its guide through all of its years.

There is no doubt that He answered the prayer of Washington at Valley Forge. There is no doubt that He put heart and courage and spirit into Lincoln during the dark days from '61 to '64. There is no doubt at all that He sailed into Manila Bay with Dewey, and here in our time, in our day, visible to us within our personal recollection, we know that He has used this country as the instrumentality of His divine will for the preservation of civilization throughout the world.

He has been with every patriot and every man who offered his life and his fortune for this country from Washington right down to the Unknown Soldier. He has used this country to work out His own desires. He has made it a harbor of rest and of refuge for the downtrodden, the oppressed, and the poor of every land. About that there can be no question.

Let us, therefore, upon each recurring anniversary look into our hearts and examine our consciences, and find out if we, as citizens of this great Republic, during the year passed



have done our full share to preserve for our posterity the heritage and the riches that were won for us at such a great sacrifice. Let us hope that on every Washington's Birthday we shall be able to bring all those people who come within the influence of the patriotic societies to an understanding of their duty for the preservation of American freedom, American liberty, and American government.

### *Fourth of July Address*

The celebration of the Fourth of July by the Tammany Society takes the form of a long speech usually made by a distinguished guest—a United States Senator, or Congressman—and a number of short talks. The address which follows was one of the short talks in the celebration of 1923, by Governor Smith.

In accordance with its well-known custom the Tammany Society meets today in the great wigwam to celebrate the greatest of American holidays. This holiday above all others makes a special appeal to the patriotism and the national pride of every loyal American.

Independence Day, the Fourth of July, is observed in every State in the Union as our distinctive national holiday and that is as it should be, for the event which it celebrates is the most important in American history. It is in fact the birthday of the nation.

It was on July 4, 1776, that the Continental Congress, assembled at Philadelphia, passed the resolution known as the Declaration of Independence, after having had it under consideration for some time. It stands today as the most remarkable state paper in all the history of the world.

While the Continental Congress was in session at the State House in the city of Philadelphia, history tells us that gloom settled over that city, and we interpret that as mean-

ing that the people there assembled had a full sense of the responsibility that the thirteen States were assuming when they declared their independence. In all human probability, they foresaw that it would have to be defended in the years to come with the wealth and man power of the nation.

In fact, when in 1861 the American nation found itself in the whirlpool of a bloody civil war, the issue involved was a defense of the cardinal principles of that Declaration of Independence. Lincoln himself set this forth when he said that the Civil War was testing whether a nation conceived in liberty and dedicated to the proposition that all men are created equal can long endure.

The passage of the Declaration of Independence in the Continental Congress was not an occasion for great merriment, but rather for solemn thought, because that declaration was extremely radical in the political theories that it advanced. We have not in our time the keen appreciation of the revolutionary thought embodied in the Declaration of Independence because we have grown accustomed to it and have been the beneficiaries of the form of government instituted by it, without suffering any of the hardships that brought it about.

Let me read what in my opinion is the real meat of the Declaration: "We hold these truths to be self-evident that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these rights governments are instituted among men deriving their just powers from the consent of the governed."

What could be more revolutionary at that time than the expression of the belief that the power of government came from the people themselves? All the world was educated to a belief in the divine right of kings not only to hold the throne and rule from it, but to pass it down through their

families with all the power that went with it. It was nevertheless as true at that time as it is today that no democratic form of government can last unless its power springs directly from the majority rule of all the people governed.

The sharp contrast between the accepted condition and the new one was set forth by James Bryce, at one time ambassador from England to this country; when speaking about the better understanding between the two countries brought about by the Declaration of Independence and the revolution following it, he said, "On the one side there was a monarch and a ruling caste, and on the other side there was a people."

History has established beyond reasonable doubt that Jefferson wrote the Declaration of Independence, but it is also a fact that it contained nothing new, reducing to resolution form the history of the abuses that the people had complained of for years before its passage. Many of the complaints cited against a foreign rule were matters which previously to that time had been subjects of discussion in the Continental Congress. Many of them were embodied in resolutions adopted in various of the thirteen States and forwarded to the Congress for consideration. In fact, some of our historians say that the Declaration was written in haste and for that reason the passage declaring that "all men are created equal" should have read "politically equal." That was what was intended and what was generally accepted by the people at that time.

The immediate effect of the passage of the Declaration of Independence was to establish America in a new light before the whole world. Instead of rebels fighting against their own Government, they were free people battling for their own independence. The Declaration of Independence after all was in the nature of a political platform and was nothing more than the setting forth of a political principle, and in order that the blessings that flow from that declaration might be

guaranteed to posterity a Constitution was adopted to give life and vigor to these principles. We find the salient features of the Declaration of Independence guaranteed by the Constitution in the sentences that preserve for us freedom of political action, freedom of religious belief, freedom of personal rights, freedom of assembly and speech, all our rights of trial by jury, our rights to the writ of habeas corpus, and protection of our right to be deprived only by due process of law, of life, liberty or property. The Constitution was intended to protect the minority from the tyranny of the majority. On the other hand it was also intended to safeguard the rights of an unorganized majority as against what could be the tyranny of a minority.

The Constitution of the United States is a simple and easily understandable document. All that it seeks to do, in fact all that it does, is set forth in its preamble: "We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and posterity, do ordain and establish this Constitution of the United States of America."

In spite of the fact that our Government is built upon principles that admit of no discussion, human frailties have brought about enemies without and within. To my mind, our fear, if we are to have one, must come from the activity of those within our own ranks. They are divided into two classes, the ignorant and the willful. Education and its progress will take care of them both. They build their hopes of success upon the popular fallacy that there is in this country a ruling class. No man or set of men rules this country. That argument is an appeal to popular passion and prejudice, and the thought that they desire to plant in the minds of the gullible is that wealth is a ruling force in this country. Noth-



ing could be further from the truth. If ever a country in all of the universe was intended to be ruled by the plain people who make it up, it is the United States of America. Ours is a land of equal opportunity, and that means that opportunity is accorded to the rich and poor alike; and as a cold matter of fact no man of great wealth has ever been elected President of this country, and some of the brightest passages in our history record the elevation to high office of men from humble surroundings.

Now after one hundred and forty-seven years of experience in democratic constitutional government we note a tendency among progressives in all parties to go back to the principles of Jeffersonian democracy as a refuge from the oppression of privilege. What is the demand to bring the government back to the people but a demand for return to the principles of democracy as set forth in the Declaration of Independence? Nothing is clearer today than that the only type of government which is stable and lasting in the long run is that which receives its sanction from the majority of the people.

I could spend a great deal of time outlining to you how successful we have been as a nation during the comparatively short period of our national life. When our Constitution was adopted in 1789, the population of the whole country was less than half of the population of Greater New York today. It can all be summed up in a few words when we say that America today leads the world and that it is the commercial and financial center of the universe, and each recurring anniversary of that memorable day in our history should bring home to us the lesson of our duty.

Let us therefore on this day, as a lesson and an inspiration to the youth of the country, once more proclaim our allegiance to the immortal document, to the Constitution that sustains it, and to the flag that represents them both;

and when we retire to our homes let us thank God for His watchful care of our country since its discovery, and let us pray for His blessing upon our future, asking it all in the name of His Divine Son who gave the world the greatest lesson and example of the equality of men.

## INTERNATIONAL RELATIONS

### *Reconstruction and World Peace*

This is how Governor Smith responded to a request made by the *New York World* for a statement to be published on Armistice Day in 1923:

Though the armistice was signed five years ago today, the war in Europe is not over. It is not over because the seeds of war are in the governments and in the hearts and minds of many of the people who fought the war. The historic hates and suspicions which led to the greatest man-made carnage in history have not yet been obliterated. As long as we think and feel in terms of war, we cannot have peace.

Why have the conferences at Geneva, at Cannes, and other places resulted in futile talk? The answer is that as long as people do not think and feel in terms of reconciliation, statesmanship and diplomacy are as insubstantial as air.

Europe of today is the victim of the war mind. The hope of civilization is in the birth of a new statesmanship which recognizes that hate is a barren and destructive emotion and that good will is not a sentimental feeling but a positive constructive force.

The statesmanship which Europe sorely needs must emanate from hearts filled with a desire for unity and reconciliation.

### *Duty and Opportunity of the Democratic Party*

Governor Smith thus expressed himself in the *New York Times* for June 13, 1924, on national and international issues.

The duty and opportunity of the Democratic party is the restoration of popular government.

The discharge of that duty must begin with the campaign itself. In the last Republican presidential campaign, the combined expenditures of the Republican national, senatorial and congressional committees was \$8,100,739.

We must prevent a repetition of this debasing with money of the electoral process and bring home to the electorate for their condemnation instant knowledge of any attempt to repeat it. I have three times recommended to the Legislature of New York State an amendment to our Corrupt Practice Act which would provide for the publication before election of all campaign contributions. I believe that the people are entitled to know from what source the money comes that is used to promote the election of any candidate.

We must then cleanse the national administration from the filth of corruption. No guilty man must escape punishment. Moreover, our Government rests on party responsibility. The high privilege to serve and govern the nation cannot rightfully be claimed by a party whose defense is that only a part of its cabinet was dishonest. The advocates of "normalcy" naturally drifted to the attitude that a "deal" with crooked business is normalcy. The attitude implies that the hand of crooked business should help steer the ship of State. It has corrupted alike business men and officials. It has shamed a great nation. The President and the unsmirched residue of his cabinet as party leaders must bear the blame for the weakness of their party policy. Public rights have been bartered away for private gain; those responsible have been blind to official bribery; they have delayed until coerced by irresistible public opinion in whipping these money-changers from the temple of the Government.

Let us lead the nation back from "normalcy" to honesty.

"Normalcy" prompts tariff extortion. The farmer has



been cheated by the promise that high duties on agricultural products, which are not imported, would offset for him high duties on the articles he must buy. The laborer has been deluded by an inflation which gives him an apparent high wage, the real purchasing power of which is destroyed by the provisions of the Fordney-McCumber Tariff Act. The business man has been misled by artificial interference with the course of commerce that enriches the favored monopoly at the expense of the average man. The restriction of foreign imports for the benefit of the tariff beneficiaries has impaired the ability of our foreign debtors to discharge their obligations to us.

*We must restore a tariff of honesty.*

A nation stretching from Maine to California, which comprises metropolis and farm, foreigner and native, mountain and plain, with every variety of community and every habit of life, must retain that local self-government which our forefathers regarded as a foundation of our Republic. New York cannot impose local rules for Oklahoma, nor Montana for Florida. Reasonable differences of viewpoint in widely differing sections must be recognized if we are to preserve national unity.

We must, therefore, revitalize the constitutional provision that powers not expressly given to the Federal Government are reserved to the States. We must stop the dangerous over-centralization of Federal power. We must halt the march of Federal commissions and bureaus, and taxation and laws that are pressing on every locality. We must be not only for one but for all.

The natural resources of the nation must be dedicated to the use of the people. In a message to the New York Legislature on water power I said, and I have insistently maintained:

Personally, I favor its development, its ownership and its control by the State itself for the benefit of all the people. There are those who believe in its development by the State and its utilization by private interests through lease or purchase.

I hold that the water powers of this State are the property of all the people, and that, when developed, the people themselves should be the beneficiaries.

That stands equally true for the natural resources of the nation. No Teapot Dome scandal will ever be possible if that principle is firmly fixed in our national policy. The Democratic party must fix it there.

Our traditions condemn alike entangling alliances and unreasonable isolation. The vacillating policy followed under the Republican administration is challenged not only by those who regard it as false to the American ideal of service to the world, but with equal force by those who regard it as destructive of our own self-interest. The arteries of trade reach through the civilized world. When Europe lies economically prostrate, the flow of our merchandise through these arteries stops short. In our Western wheat belt, the greatest in the world, over five hundred banks have failed under the Republican régime. Our surplus agricultural products rot in storehouses because foreign nations, our legitimate customers, are without power to purchase. From us they have received not only no affirmative help, but actual injury in our policy of aloofness.

There is nothing partisan in these considerations. When the Republican party spoke through the voice of its great statesmen and not through the voice of its small politicians, that party, too, proclaimed the necessity of maintaining proper and reasonable contacts with other nations of the world. The matter is one both of aims and of economic policy. At the water's edge, all partisan contention should

cease. But our party must lead the way where the Republicans have failed. We should enlist the ablest men of all parties to examine at first hand conditions and the actual functioning of the national and international agencies operating in Europe today, from both economic and governmental points of view. In the light of their recommendations, we should act and act promptly for the furtherance alike of American ideals and American prosperity, with full knowledge of conditions as they are. Then we may be guided to action, not by partisan rancor, but by knowledge and wisdom.

We must assume responsibility for what we do. A great nation must no longer sneak into international conferences by the back door with unofficial observers. If we send a Dawes Commission to Europe, let us at least pay its expenses and be unashamed to take responsibility for our agents.

We must help build the machinery for peace. The hopes and fears of every father and mother in our land cry out for it. The same cry resounds from the parents of every land. The lamentations of the mourning mothers whose sons lie in soldiers' graves call from every land, German or French, Slav or Briton, Italian or American, to follow in the path of the Prince of Peace.

Let no man say that this is mere sentimentality. The broken heart of a stricken mother is the most real thing in life. We must come together with other nations to end war.

It is the sacred right and mission of the party of Cleveland and Wilson to lead in translating into action the Biblical exhortation :

Have we not all one Father? Has not one God created us? Why then should we deal treacherously . . . each with his brother?

In every activity of Government, domestic and foreign, the Democratic party must reestablish what one of its great leaders proclaimed and exemplified, that "Public office is a public trust."



## INAUGURAL ADDRESSES

These addresses were delivered on January 1 of the years 1919, 1923, 1925, and 1927, the occasions of the four inaugurations as Governor of New York State, in the gayly decorated Assembly Chamber of the State Capitol at Albany.

All the branches of the State government, the legislative, the judiciary, and the executive participate. The Army and Navy are evidenced by the uniforms of the officers. The gowns of the judges of the Court of Appeals, and the touch of color in the hoods of the regents of the State University, all contribute to a brilliant spectacle.

The inauguration ceremonies are conducted by the outgoing Secretary of State, who is addressed by the Sergeant at Arms, announcing the arrival of the various dignitaries.

When the outgoing and incoming governors are announced, great is the excitement and applause of the packed hall of citizens, friends, and well-wishers. Governor Smith, after solemnly repeating his oath of office, administered by the Secretary of State, relieves the stiffness of the occasion by making his inaugural addresses brief, spontaneous, and human.

### *January 1, 1919*

Mr. Secretary of State:

It is under the most favorable circumstances, I feel, that I am entering upon the duties of my new office.

By telegraph, by mail, and personally, showers of good wishes and promises of hearty coöperation have come to me from every direction.

I take advantage thus publicly to give expression, in a small measure, to my gratitude for them.

I thank Governor Whitman for his courtesy to me, and

for making pleasant the change from his administration to mine.

I also thank the Secretary of State for the painstaking care he has given to the preparation of all the ceremonies incidental to today's inauguration.

Likewise do I thank all the men in the State departments and in the Legislature who have helped prepare the way for me.

I am not a stranger to Albany, having lived here for twelve winters. My arrival in the Capital city was somewhat like a homecoming.

The State of New York, with the whole nation, rejoices at the great victory which America and her Allies have won.

The people of New York welcome their sons who have gone forth to fight the battles of America. Those who come back in health and strength, it is our task to reinstate in the employments they had or in positions equally as good. To those who return wounded and maimed, it is not only the duty, but the privilege of the State to see that they are made well and to provide suitable employment for them.

Not only must we have in our minds the sacrifices made by the armed forces of the country, but we must think also of the tasks imposed upon our men and women at home. All have given willingly the best that was in them and have sacrificed themselves to the utmost, because they realized the greatness of the cause which they were supporting.

While war presents its problems, taxing the brains and ingenuity of mankind, the reconstruction period following in the wake of war likewise presents problems of great moment to the people. They are as important as the problems of war.

Not only elected officials, but all interested citizens, must turn their minds to the enactment of measures of taxation which will bear equally upon all classes of our people.

The readjustment of costs, production and distribution

of foodstuffs, of fuel, the question of wages and unemployment, problems of finance and banking, questions of sanitation, public health, the position of women in industry, education, and military training need solution at our hands as peace measures.

The lessons of the great war must not go unheeded. We must benefit by the war as a nation and as a State. It has taught us that more stringent and more universal laws are required for the protection of the health, comfort, welfare, and efficiency of all our people.

Not a single drop of American blood should have been shed in vain. While our boys, on the battlefields in a foreign land, commanded the admiration of the whole world in their struggle for the ideals of democracy, those ideals must likewise be realized at home.

On all of these measures, I will communicate to the Legislature at length when it convenes tonight.

I am mindful of the burden of responsibilities which this office places upon my shoulders. I am looking for, and I expect to receive, the heartfelt coöperation of all the State officers and of the Legislature. I am happy in the knowledge that I enjoy intimate personal friendship with the leaders and a great many members of both branches of the Legislature. I know that they are disposed to help, and on this, the first day of the new year, I want to declare publicly that I propose to work with them, irrespective of party affiliation.

We have all been elected by the people of this State to give it the best government we can. I am ready to do my full share, and I ask your hearty coöperation.

I desire to speak just a word of greeting to the people from all over the State who have journeyed to Albany for this inauguration. It is a matter of regret that they could not all find place in this chamber. I thank them for their generous expression of good wishes.

With a firm resolve to make myself worthy of the great

honor bestowed upon me by the people of this State, I ask that Divine Providence grant me the health, the strength, and the will to do the right as I am able to see it.

*January 1, 1923*

Mr. Chairman, Governor Miller, Ladies and Gentlemen:

At the outset of my brief remarks I want to express my hearty gratitude to the citizens of Albany for the reception they gave me when I arrived home here, as it was said, on Thursday in the course of a blinding snowstorm. It seemed to me that nearly everybody was around to say hello, and I appreciate it very much. I had no opportunity to thank them personally and probably never shall have, so I made up my mind to say it this morning.

I want to thank from the bottom of my heart the Governor himself for his uniform kindness and courtesy to me. During his term, I was a member of his official family. The first appointment that I received signed by any official came to me from Governor Miller. I want to say that there was not a very large salary attached to it, but it was interesting work and there was an opportunity to do something for the people of the great metropolis, who seem to feel kindly toward me.

I am mindful of the responsibilities that are placed upon me when I take up the reins of government. I know exactly what it means. I have been through it, not alone as the executive, but I have watched other executives struggling with it during the twelve successive years that my voice was heard in this chamber we are in today.

We have in this State, as we should have, party government under a representative democracy. The only vehicle for ascertaining the public will, and then giving it force and effect afterwards, is party government. I expect the full co-



operation of the members of my party and also the members of the other party.

There is much to be done in the new year because government, after all, like every other human agency, has its weaknesses, and no matter to what standard you raise it you can always make it a little better. Experience and the knowledge which grows out of experience make it possible to keep advancing step by step.

We can better our great educational system throughout the State; we can improve our hospitals and our charitable institutions; we can keep up to the standard all our great public works in the State; we can maintain efficiency in every branch of the government and have square dealing as between the different groups throughout the State.

If by the experience of the past we can make some progress in 1923 and 1924 I shall indeed be very happy. In order to accomplish this, here, in this public place, today, I ask the coöperation of the Legislature. If they think I am right, I ask them to coöperate with me. If they think I am wrong, I ask them to confer with me. I want the assistance of the State officers elected with me. I ask it here from this platform today, and I want the sympathy and coöperation of every citizen who believes with me that something can be done in 1923 and 1924.

Believing that I am to receive such coöperation, I here promise, from this platform today, through this assembly, to all the people of the State that with the help of Almighty God I will do my full share.

*January 1, 1925*

Secretary of State Knapp, the Reverend Clergy, my Fellow Citizens:

History tells me that today I am the recipient at the hands

of the people of the State of New York of the signal and most distinguished honor of being the first man in exactly one hundred years to be inaugurated as Governor for a third term.

I approach the reception of this honor with a heart full of gratitude. I am unable to make myself believe that there is anything in any small accomplishment of mine in the past to justify so great an honor.

I come to my great office with no partisan mission. I feel as if I were standing alone amidst the wreckage and disaster that overtook the Democratic party on November fourth. All that I can say is that I shall continue to give to the State the best service of which I am capable.

Yesterday in the Executive Chamber it seemed to me as if I were at a farewell party. All my associates of the past two years in the State government were saying good-by to me, and as they did, I wondered if I had not better start packing my own trunk and go back to the city.

I thank the retiring members of my administration for their coöperation. I am happy to greet the incoming officials. I feel sure that so far as the welfare of the State is concerned we are all thinking alike, although of opposite political parties.

The lieutenant governor has been quoted in the public prints as saying that I shall not be able to take a vacation for the next two years. Well, I have that all figured out. When vacation time comes I propose to take the lieutenant governor along with me, and being a good lieutenant he will take his orders.

This is the sixteenth time that I have taken the oath of allegiance to the State in this room. I have a deep and abiding affection for the Assembly Chamber. It has been my high school and my college; in fact, the very foundation of everything that I have attained was laid here. I approach this

term only with a desire to do what is best for the great State of New York and keep her in the forefront of the Commonwealths of the Union, where she rightfully belongs. I have the desire and disposition, the heart and courage, and, thanks to God Almighty, the health to work hard, and I promise in this chamber and in His Divine Presence to give the people of the State the very best that is in me.

*January 1, 1927*

Fellow Citizens and Friends:

It was twenty-three years ago that I first saw the Capital city. As I look back over those twenty-three years, I can visualize to my own satisfaction the enormous growth of the State in that period.

When I came into this building first, nearly every activity of the State was carried on here. The only public office not in the Capitol was the office of the state comptroller. And in those twenty-three years the government of the State has so grown that we are this year making a heavy financial appropriation for construction of a State office building on a site at the rear of the Capitol, a giant building which is to pierce the sky to a height of some thirty-odd stories. Meanwhile, all the public offices of the State are spread throughout the Capital city, from Washington Park all the way down to the Union Depot.

In fact, we were so much in distress for office space a short time ago that we altered a Turkish bath into an office building, and used the swimming pool as a vault for the records.

Not only has the State grown in the volume of business, but she has grown in power and influence and wealth. Twenty-three or twenty-four years ago the total cost of the government of the State was less than \$15,000,000. Last

year it was \$183,000,000, and in all human probability, when proper provision is made for the growth of our educational system it will reach, in the next fiscal year, close to the \$200,000,000 mark. We have taken \$25,000,000 a year from the owners of automobiles alone. In the small tax we levy against that commodity, as it might be called, the State collects \$25,000,000.

A large part of our growth has been in institutions for the care of the insane, the poor, the sick, and the afflicted of all kinds that the State can bring under her guiding arm.

I always have felt that the sustaining hand of Divine Providence was behind this State and shaped its growth and gave it the strength to meet the new problems of our times, and I think every citizen has a certain sense of personal and individual gratification when he feels that the State is making some return for the bountiful blessings that fall from heaven, by the care of the poor and the sick and in better attention to all the afflicted.

The new government which comes into being today under the provisions of the Constitution is destined to strengthen the arm of the State and to bring into closer control all the activities that heretofore have been scattered, and because of their scattered condition not carried out to the highest point of efficiency.

The people of the State have been extremely liberal in voting to bond it, to borrow and maintain its good name so that it may perform its duty to the highest point of efficiency; and when the \$50,000,000 for institutions is expended and that appropriation of \$100,000,000 from the bond issue is allotted to the purchase of land and construction of more and better buildings, the State will have made a great step forward, will have made a great advance in caring for the people who come under her charge because they are unable to care for themselves.



This certainly is a very great honor and a very great distinction. It rather humiliates me. I have not the flow of ready talk and of ready language that I possessed during the campaign when I come upon this platform to receive at the hands of the State of New York the honor and distinction never accorded to any man in all the history of the State.

There is nothing I could say that in the slightest degree could measure the depth of gratitude I have in my heart for the people of this State for so signally honoring me. But there is something that I can do and that, with the help of God, I will do. I will give every minute, every bit of my attention and energy in the next two years to the end that the State will get the full benefit for the money it has poured out so unselfishly and lavishly into our State institutions.

I am receiving a great many letters from all over the country inviting me to speak to boards of trade, colleges, chambers of commerce, business institutions, and what not. This is the place for me to talk about it.

Now I have no idea what the future has in store for me. Every one else in the United States has some notion about it except myself. No man could stand before this intelligent gathering and say that he was not receptive to the greatest position the world has to give any one.

But I can say this, that I will do nothing to achieve it except to give to the people of the State the kind and character of service that will make me deserve it.

We live in a government of laws, and not of men, and when we speak of the great power of the government we speak of that power under the law. Whatever must be accomplished within the next two years, aside from administrative details, must be accomplished by law; and when our forefathers in their wisdom divided the government into three independent branches, they made the Legislature more powerful than the Governor. The Legislature can enact a

law without the Governor ; without the Legislature the Governor is a pure administrator.

Many of the reforms in government, many of the problems we have been discussing in the last year, require amendment to the law to give them full force and full effect. On Wednesday next, when the legislators convene, I will address them by message and will set down in black and white what, in my opinion, should be done to make the government of the State more responsive toward ten and a half million people.

Without the coöperation of the Legislature I can only administer the everyday affairs of the State ; therefore, in the Assembly Chamber today, in this public way, I ask for that coöperation. I promise to give it to the Legislature from my side of the government, with a full, free hand and a willing heart, and I ask it from them.

I ask to be given an opportunity to explain to them, when the occasion arises, that I have only before me what is best for this State, because what else could I have ? What man, standing in my position today, with any sense of responsibility at all, could have any other thought in his mind except what is best for the State of New York and her ten and a half million people ?

Now, I promise you to start in today, the first day of January, and I will give every minute of my time, the best thought of which I am capable, and all the energy I possess, and I hope and pray that God will give me the health and strength in the next two years to be able to give practical expression to the feelings of satisfaction and of appreciation I have toward the people of the State for the great honor that they have conferred upon me.

PART II  
GOVERNMENT AS A BUSINESS





## RESPONSIVE AND RESPONSIBLE GOVERNMENT

As an ex-Governor, after his first term, Alfred E. Smith refrained from making many speeches about the State government. He broke his rule of silence when the New York State Association, a civic organization of State-wide character, continuing the fight for the reorganization of the State government, the executive budget, and the four-year term, invited him to speak at a hearing before a joint legislative committee which in Albany, 1921, was considering constitutional amendments to submit to the people embodying these reforms.

I said when I left the Capitol that if I returned at any time it would be to debate constitutional questions; that the ordinary everyday matters were not of so much importance.

I think that it is agreed by everybody that we are struggling along in this State under a constitution we have grown away from.

We are trying to fit the activities of a great State into constitutional machinery that was manufactured before anybody in the room was born. Do not make any mistake, gentlemen of the committee, about the attitude of the people of this State toward this question. I speak to Senators who were here last year, and you know that you would not have this amendment before you this year unless you had become convinced that the people of this State want it.

The chairman of the finance committee of the Senate, speaking for the Senate, started a tour through this State in opposition to these very proposals.

If you make a memorandum of the date upon which the

Senator made his Rochester speech and look at the date of the introduction of the amendment, you will find that after he left Albany and went around the State a little bit and gathered up a little public sentiment he came down and introduced for the consideration of this house and the Assembly amendments carrying into effect the very things he declared against, speaking for the Senate.

A great deal of fun has been poked at the reconstruction theory by the opposition to the members of the boards and commissions that we have in the State. Let us not underestimate. If you think there are not as many as we think there are, sit in the Executive Chamber for two years and be obliged to confer with somebody from every one of them, and by the time you have finished, 180 or 187 will look too small to you. You will think there must be more.

I am taking a good, cold, practical common-sense view of it, and if there is any man in this State who can give me any good reason why the people of this State should elect a State Engineer I should like to hear it. I never heard it from anybody. I have a great deal of difficulty in finding any number of people who know who he is. The same thing applies to the Secretary of State. The same thing applies to the State Treasurer. Still we go on in solemn fashion every two years putting forth candidates for all of these State offices.

Is there any reason why we should have in this State five or six different tax-collecting agencies? Let me go back a couple of years over a little bit of history. The one constructive feature, the one big idea in Governor Whitman's first message to the Legislature, was the consolidation in the interest of a greater efficiency and economy of the different tax-collecting agencies.

I was going to say something about efficiency but it is related also to the question of economy in administration.

What man can give us any reason for having four or five commissions dealing with prison matters in this State? We have a commission on prisons. We have a superintendent of prisons. Then we have a board of parole, and for fear that may not be enough we have a probation commission. Now the day that the board of parole leaves Sing Sing, on their way out they are likely to meet the commission on prisons going in.

Does it look to efficiency? Does it look to responsibility in government? No, it looks to confusion. What happened in the last six months that showed that confusion? The commission on prisons after the plans had been drawn for the new death house at Sing Sing found a provision in the law that gave them the power to say whether or not it was to be built, and they decided to hold it up. I summoned them to the Executive Chamber and discussed it with them in the presence of the State architect and the superintendent of prisons. We were all agreed that the building should be built, as long as the plans were all drawn, and were about to submit them for public letting, but the commission on prisons changed its mind about it, and there we are.

We have the death trap down on the Hudson River years after the Legislature has declared its purpose, years after the State speaking through its law-making body has declared its desire for a new building; and the old one is still standing there.

Can you remedy this? You can, providing you get the commissions to stay in harmony long enough to let you do it. Is there any reason for it? Would a good business institution stand for it for a minute? Why should the State stand for it? If the State could have a single department of correction presided over by some able citizen appointed by the Governor and responsible to him, why would not that man

be able to carry out all the duties the State feels it is best to perform toward the people that are guilty of infractions of the law?

Why should there be a different notion in one part of the State as to how an institution should be run from that in another part of the State? I think, if you will take a simple man's view of this, I can tell you why, in my opinion, it started in that way. It is so old and belongs to a time far back when the State was not able to function in any other way. But with modern means of transportation, with the automobile and the regularity of trains, is there anybody willing to say that one man, properly equipped and properly trained, could not from this very building preside over all the correctional institutions of the State? I am satisfied that he could, and I have had it proven by practical experience to my satisfaction.

I think the most salutary part of this scheme is the part of it that prevents the creation of any more commissions. After you have established eighteen departments of the government to take care of every conceivable thing that the State can ever take care of, why should not any new activity be put into one of those departments? Isn't it a fact, and if we want to be square with ourselves will we not admit, that the creation of commissions in the past has been to take care of some particular political situation? What was in the minds of the legislators when they created a Department of Narcotic Drug Control? What was in their minds when they were enacting three or four new sections to the Public Health Law, and the original bill gave to the commissioner of health the execution of the additional duties comprehended in these three new additions to the law that he was supervising? Here we have a Department of Health with sanitary supervisors spread out throughout the State in inspection districts, with a costly machine already installed in



this building, and we create the Department of Narcotic Drug Control for the purpose of enforcing three sections of the Public Health Law. We have to sit down here in solemn conclave and find an office for them and find a place for them to function, and have to supply them with all the secretaries and all the help that they need, just as though we were beginning something new in the State of New York, instead of doing a duty that the State has performed for a number of years—the preservation of the public health.

The abolition of the Narcotic Drug Control Department is now included in the program of economy. I recommended twice that it be abolished, and so solidly entrenched and so necessary was it for the State that it lasted during my two years.

I think that the general scheme of a constitutional amendment to reduce the number of elective offices and provide for the creation of these eighteen departments of government is pretty well understood throughout this State. I believe that the members of the Legislature understand it pretty well. I believe that it was because they understand it that we have it before us this year, not as a new proposition, but for second passage prior to its submission to the people of the State for adoption.

That brings us to the budget system. The proposal for an executive budget was defeated last year by one vote in the Senate.

Now, what does it propose? It proposes that after the government is organized into eighteen departments, the governor and the heads of the departments, under appointment by himself—and I will explain the necessity for that when I come to the four-year term—sit down and make up a budget. What is a budget, as we understand it? A budget is the necessary expense of running the State. It is overhead. It is that which you cannot get away from. Just exactly as

the family sits around the table once a month and you put down the rent, the gas bill, the morning and evening papers, and the things that you have to have, and then you talk about the luxuries afterwards. It means that that budget will be prepared by the governor and the heads of his departments and submitted to the Legislature, and it will have the power of reducing but not increasing any item.

It becomes the duty of the governor, and he will establish within his department, and he will have to, a scientific budget-making department. You know why you haven't it now. Every governor has come to regard the present budget system as a kind of joke. If he knows anything he can do nothing else, because that is what it is—just a joke.

After the governor and the heads of the departments have agreed upon what is necessary for the overhead of the State, what reason is there for increasing it in the Legislature? What State purpose is served by increasing any of the items? You may say that we deprive the Legislature of the right to increase them. Not at all. We do say that when they increase an item, they do it out here on this floor and in the open by a single bill, so that it can be decreased. Nobody would want to take away policy-making from the Legislature, for it costs money; and every new policy and every new activity of the State naturally costs some money.

It was never intended by any provision of these amendments. After you have made provision for the support of government you have put down in black and white everything that, in the opinion of the governor and his department heads, is absolutely necessary, and you have had your opportunity to reduce anything you thought was extravagant. You have thereafter all the opportunity and all the chance that you desire to embark upon any new endeavor; and if you desire to increase the salary of the janitor of Agricultural Hall you can even do that, but you have got to

do it by a bill and not by writing it into the big bill of six hundred pages or more, which nobody reads. Why should the Legislature tell a department head that he ought to pay some people more money than he thinks they are worth?

Don't let anybody talk to you about the executive budget system interfering with the power of the Legislature. No suggestion of that kind appears in the amendment.

What position do you put the governor in under the present system? He has to take your appropriation bill or leave it. He has either to cripple a department by cutting out the amount or take whatever you say about it. I do not believe that that is the general public understanding of the function of the Legislature. Certainly, the governor has to answer for it, and the present governor made a vigorous campaign on the question of economy. I am in hopes that he will be able to make good, but he cannot do it himself. He has promised something that he knows in his heart and soul he cannot personally deliver. He has got to rely upon somebody else. Is that right? Is it fair to him? Is it what the people of the State expect?

Now then, we come down to the four-year term and the control by the governor when he comes into office. Prior to 1894 in the city of New York you had the identical situation that you have in this State. You had commissioners of important departments in that great city government appointed for given terms. Some of them exceeded the term of the mayor. The Legislature itself declared that no man could be held responsible for the government of the city of New York unless he was given that freedom of selection which permitted him to surround himself with men of his own choice.

President Harding was inaugurated President of the United States last Friday. He brought into office with him, and declared it throughout the land, a cabinet of his own

selection to take charge of every activity that comes under him as President of the United States, and the people are looking to him. What have you got here?

You elect a man for two years. He comes in here, and he finds himself surrounded on all sides by men appointed for all kinds of terms, many of them longer than his own. They are out of sympathy with him—but glad to see him—and unwilling to do anything for him that they do not actually have to do. What man who never served in the Legislature, or never had any experience, can get any understanding of this government in a year? I do not believe that the man lives, and I do not care how much of a lawyer he is.

At the end of the year he is projected into a fight whether to retain his place or stand up and say, "I have enough," or lie down. Under the primary system he begins to run about a week after the Fourth of July, and he is not any good to himself or the State for about three months; and then after election, unless he is made out of something that humans are not made out of, he has to go away and lie down and sleep for himself or he will die. So that out of twenty-four months you automatically eliminate six months of his usefulness by compelling him to run again.

Let us go back a little and see when the two-year term was fixed for a governor. There was not very much to this State at that time. It had very few activities. It is well known of some of our governors that as soon as the Legislature adjourned they went home—home to the Executive Mansion? No, home to where they lived, and they stayed there until the Legislature was about to convene again. That was possible in the good old times when governors rode around behind their four horses and did not have any work to do. But with the present activities of the government, the present business of this State, and with its enormous expenditures and its widely divergent lines of endeavor, all



requiring his time and all requiring some study, why elect the governor for two years? He is of no use to the State until he has been in for some time, unless he has been around here for a long while.

You made the term of the mayor of New York City in 1904 four years, for that reason, and it was urged on the floor of this house and on the floor of the Assembly that if we were to get continuity of effort and endeavor in the city of New York it had to be done by extending the term of the mayor, and that is why you made it four years instead of two years; and that was done seventeen years ago. But the State, afraid of progress, afraid of anything new, and moving along behind the footsteps of that fellow who wants nothing done, nothing done at all, is living in an age long past, and electing the governor for two years.

I have said nothing at all about the question of the right of the governor to name his own aides and assistants. It ought to be. A man who comes into this building as the chief executive of this State is entitled, by every fair process of reasoning, to be surrounded in the great departments under him by the men of his own selection. A great many of the governors believe they ought to be anyway, and what do they have to do to bring it about? They have to turn the department inside out for about six months while it is undergoing a process of reorganization, as it is called in high-class language, but by bills that have been designated by the vulgar term of "Ripper."

In urging this, gentlemen, I assure you that I have no partisan purpose. There is nothing that I could say to you this afternoon, nor could I find words to say it, that would have you feel as strongly as I do that I have no partisan purpose in coming up here to talk on this reorganization. I have had all the elective or appointive places that I will ever hold while I am alive. I have discovered in two months that I

am a very good truckman, and I am in that business. I am here to do what I can, doing it upon the time of the men who pay me, for the State of New York, largely from a sense of gratitude to it and largely for what return I can make for what it did for me.

This is backed up by men of all parties. I spoke for it from the same platform with Secretary of State Charles E. Hughes, and nobody ever accused him of being a member of Tammany Hall. I spoke from the same platform with Henry L. Stimson, right on these very things we are talking about this afternoon, and from the same platform with Martin Saxe, Republican Senator, who I understand is here today in advocacy of the very things that I am talking about. So do not let us get any political notion about it. There are plenty of political bills here that I could come up and talk about, if I wanted to create a little storm or a little uprising on the political horizon. I regard this as being something above party and a matter of duty for citizens who are interested in getting this government right, and I do not think there is a man in the Legislature, possibly with the exception of that rare individual here who must disagree in order to preserve the eternal fitness of all things, who does not believe way down in the bottom of his heart and soul that this is right and that it is in the interest of the State of New York.

That is the reason why it got such undivided support and that is the reason why it attracted to its cause men of every party, and of all parties, and men who know nothing about parties. That is the reason why merchants' associations, chambers of commerce, boards of trade and civic organizations from one end of the State to another have stood up so strongly behind it, and that is the reason why Nathan L. Miller, the present governor of New York, accepted a position on the executive committee of the non-partisan group

which urged its passage by the last Legislature—because he knew it was right.

I submit it to you. I feel that the Legislature will pass it on to the people and let them vote upon it. If there is a fundamental question of our democratic government involved in it, let them settle it.

## THE EXECUTIVE BUDGET AND THE FOUR-YEAR TERM

Extract from a speech delivered at the dinner of the New York State Bar Association, January 19, 1924, on the Executive Budget and the Four-Year Term.

I come to you tonight asking for assistance, not for myself but for the State. No man in all the history of our State has more reason to try to do something substantial for it than I have. At the last session of the Legislature there was adopted a proposal to amend the Constitution to bring about a consolidation of the scattered departments and agencies of government into twenty-one distinct departments and do away with the necessity for the election of minor officials of the government, like the State Engineer, the State Treasurer, and the Secretary of State. This very practical reform in our present system is in no sense a political question but is rather one of good business. It had its origin in the Republican constitutional convention of 1915 and has been widely discussed ever since in various parts of the State.

Hand in hand with this advance in our method of doing the State's business goes the executive budget and the four-year term for the governor. The present method of appropriating public money belongs to an age long past. Whatever may have been the conditions years ago, the existing system is not fitted to present-day needs. If we are to have a responsible fiscal control of the departments of the government, executive responsibility for it must be increased, and this can only be done by an amendment to our Constitution. All the talk about statutory budget committees is



simply an evasion of the real question. The manner and method of making appropriations of public money today are fixed in the Constitution and can only be altered by an amendment to that document. The executive budget proposal defeated last year and offered again this year by me is so simple and so easily understood that the children in our high schools could have an understanding of it after it is explained.

The executive budget system by constitutional amendment proposes that the governor submit annually at the beginning of the legislative session a budget showing the estimated income of the State, the sources from which it is derived, and the recommendations as to the fixed and definite charges of the government. With the budget the governor will submit to the Legislature an appropriation bill carrying the budgetary recommendations into effect. He must thereafter, if called upon by either house, appear before the Legislature and explain it. Power is vested in the Legislature to reduce any item in it or strike any item from it. After it is accepted by the governor and the fixed cost of the government is known, the Legislature thereafter has a free hand to enact any appropriation bill it pleases, to engage in any new activity it sees fit to engage in. It can even amend the budgetary bill already passed. All subsequent appropriations are, however, subject to the veto of the governor as is now provided by the Constitution.

Let us see the virtue of this system as against the system now in practice. When the departments of the government are reduced to twenty-one, it is an easy matter for the governor to sit down with what will be referred to as his cabinet and prepare with them the items necessary for the conduct of the departments over which they preside. Thereafter it would be an easy matter for him to make explanation of the different items, department by department, because as a

matter of fact, few of them in the course of a year change from the preceding year.

In order that the control of the finances may rest with the Legislature, they have the power to strike out any item or reduce any amount they see fit to reduce or strike out from the budget bill; and after its passage and signature they have absolute freedom to introduce as many new bills as they please; but they must, then, defend them in the open, and that is as it should be. The present system, under all the conditions in Albany, is really no system at all. The different departments send their requests to the Board of Estimate and Control and transmit copies to the budget secretaries of both houses; and thereafter the finance committees of both houses of the Legislature begin the preparation of an appropriation bill. It becomes the work of 201 men, and Senator Sage himself, as far back as 1920, made the statement that there were not ten men in the Legislature who knew what was in the appropriation bill. The Legislature can increase salaries and can reduce salaries over the recommendations of the heads of the various departments without any explanation. Items are discovered in the appropriation bills long after they become law for which nobody is willing to take the responsibility. It is a kind of a happy-go-lucky, do-the-best-you-can system, which lets everybody take care of the special interest that he has in his mind, at the same time relieving everybody of responsibility for what happens.

In the course of political debate, it has been asserted that the new budget system tends to decrease the power of the Legislature. That's not true. If anything, it increases its power and materially adds to its dignity. Appropriation bills should be the subject of debate. They never are. Nobody says anything about them except the two leaders in each house, and what they say is usually of a general character, each side claiming for itself all the virtue that there

is in the world to be bestowed upon anybody for economical conduct of the government.

In the last campaign, we were treated to the ridiculous spectacle of the governor being blamed for the size of the appropriation bills, although every one of them, and many more than I accepted, passed both houses of the Legislature under different political control. A recent investigation into the affairs of the Department of Highways at Albany revealed how easy it is to put a large item into the appropriation bills without anybody knowing anything at all about it. Sixty-eight thousand dollars for the purchase of a bridge was hidden away in the middle of a 600 page bill under an item headed "repairs and maintenance of highways."

The new budget system will require the Legislature to give more time and more attention to appropriations of public money. That in itself will be a distinct benefit to the people of the State. All the talk we hear about statutory budget committees is raised simply for the purpose of beclouding the issue. We have had statutory budget committees for a long while. They are unable to function. They spend a great deal of time in the preparation of appropriation bills. After the Legislature gets through with them, the men who drew them are unable to recognize them.

If the people of the State want this loose, irresponsible system to continue where their money is concerned, it is up to them. If, on the other hand, they want modern, up-to-date business methods applied with a fixed and definite responsibility by the governor himself, then they will urge the Legislature to submit to them an amendment to their own Constitution in order that they can bring about this much-needed reform.

Hand in hand with the reorganization of the government and the adoption of a modern budget system, goes the question of the term of the governor. Every thoughtful student

of our government in this State and every man who has ever been governor is in unanimous accord with the statement that the term of the governor is too short. As far back as 1904, the term of the mayor of New York was lengthened from two to four years and the reason given at that time was that the magnitude of the job and the complexity of the questions presented were too much for any man to grasp properly in the short period of two years. A distinguished member of the Legislature said last year that if a governor is good, he will be reëlected. If that argument stands, neither Governor Miller nor myself was any good.

What is the difficulty encountered in an attempt to bring about these necessary and needed reforms? It is just one thing—politics. I debated this question with the men who opposed me in Albany last winter and not one of them approached a consideration of these subjects from the standpoint of what was best for the State; they had nothing in mind but party expediency. It was freely whispered around the halls of the Legislature that the four-year term robbed one of the political parties of what looked to them like a sure election in the presidential year. No man could make that argument who had in his mind the best interests of the State itself.

In 1894, we amended our Constitution to prohibit city elections in the larger cities in the same year as that of a gubernatorial election, and the reason given at that time was that the people should not be distracted by purely local issues when electing their governor. The recent Home Rule Amendment to the Constitution has made this provision applicable to all cities. If that was sound in principle, then when the people are voting for a President of the United States they should not be distracted by State issues.

There is no reasonable, sensible, honest, straightforward argument that can be made against either the executive bud-



get or the four-year term. The men who oppose it do so for purely political reasons. No matter what might be said about it, nothing can happen until the people themselves accept it. There will be plenty of time to debate it after the Legislature shows a disposition to submit it to the people.

A refusal to permit the people to pass upon these two important subjects can only be prompted by one of two things: either a lack of confidence in the intelligence of the people to deal properly with their own law, or else a desire to promote party welfare as against the best interests of the people.

## PAY AS YOU GO VS. BONDS FOR PERMANENT PUBLIC IMPROVEMENTS

Usually the year following the election of a governor has very little interest to the voters of the State.

The only State officials chosen in such a year are Assemblymen, and their election does not arouse the electorate. But the year 1925 was an exception. Governor Smith succeeded in making the citizens of the State excited about its fiscal policy by debating the proposed constitutional amendment providing for a bond issue of one hundred million dollars to be spent at the rate of ten million dollars a year for a period of ten years for the carrying out of a comprehensive program of public improvements.

Among Governor Smith's most ardent and eloquent opponents of the policy of financing permanent State enterprises by bond issues instead of from current revenues was Congressman Mills.

The Governor debated the issue with Governor Miller in New York at Carnegie Hall and with Congressman Mills before the Economic Club in that city. He also debated the subject with Congressman Mills in Buffalo on Thursday, October 22, 1925, with Judge Frederick E. Crane, of the Court of Appeals, presiding. The exposition and summary of the Governor's address in that debate are here given.

The amendment to the Constitution that will appear as No. 1 on the ballot proposes to permit the Legislature to bond the State for ten years for an amount not to exceed \$10,000,000 in any one year, and for brevity it is referred to as the bond proposal.

Before I go any further I desire to correct a false impres-

sion that has been spread about in relation to this amendment. It has been said that this breaks down the safeguard, that we are taking out of the Constitution a salutary provision that has been in it since 1846. That is not so. This takes nothing out of the Constitution. And at the end of the ten years, when the emergency which I shall develop here tonight has passed, we shall lapse right back to where the Constitution stands today.

In order to put the picture properly before you, I am obliged to go back a period of about ten years in the financial history of the State. In the constitutional convention there was considerable discussion about this whole question of the issuance of bonds for permanent and lasting public improvements. Submitted to that convention was the report of the board of managers of Letchworth Village, an institution maintained by the State at Phillips, in Rockland County, for the care of feeble-minded people. The report says this:

To accomplish the most effective results, a complete revision of the entire statute law governing the State charitable and reformatory institutions is necessary. After such revision has taken place a comprehensive plan for the development of institutions to provide for the needs of the next decade should be worked out in detail with the greatest possible care and by the best experts obtainable. This having been done, the State will be in a position to appropriate, through a bond issue, or by large annual grants, the sum necessary to carry out a real effective program.

That means that in 1915 the necessity for a program with large annual contributions of money—not talk, money—was required, year in and year out, to make it effective.

In the same year that the constitutional convention was held it was apparent to everybody in Albany, without regard to party, that something drastic had to be done to help our State hospitals and the best thing I can do is to tell you that

story. In 1915 there was created what was known as the State Hospital Development Commission. Plans were drawn for the relief of some of the overcrowded institutions, and for new institutions to take the place of the old, dilapidated buildings which had been in existence for seventy-five years. The work began in 1916. Two things happened to it, war and politics. And as between the two, politics was the worst. I will develop that by the history of the appropriations over the period of the ten years from 1915 up to date.

In 1920 the Senate and the Assembly were overwhelmingly Republican and I was in the governor's office, and Senator Sage, chairman of the Senate Committee on Finance, came down to the governor's office to talk to me about the State hospitals. He said, "There is no use waiting for a fall in prices of labor or material, we have just got to advance this work"—because the conditions in 1920 were intolerable in these State institutions. The State of New York, shame to itself, was falling down miserably in the sacred duty that it took upon itself to take care of these 40,000 unfortunate insane people.

Let us look over the history and see what happened.

In 1917, notwithstanding that we were in the war and notwithstanding that the Federal Government asked the States not to use any of their men or material but rather that they be left to the purposes of the war, there were appropriated for construction—by construction I mean new buildings—\$1,285,000.

In 1918 the pressure of the war was very strong, but, notwithstanding that, there were appropriated in 1918 \$968,000. In 1919, my first year as governor, there were appropriated \$1,558,000. But in 1920, when Senator Sage visited the Executive Chamber and we spent three and a half hours discussing this whole thing, I said to him, "Senator, it makes no difference to me whether I am going into a campaign or



not; if this is something that should be done, I am prepared to do it." I accordingly accepted appropriations to the tune of \$7,300,000. And during that conversation with Senator Sage there was one thing that we were both agreed upon, there was one thing upon which the State architect agreed with us, there was one thing with which the State Hospital Association was in absolute accord, and that was the necessity for appropriating a like amount every year for at least ten years.

Now, what happened? The war did its damage, but politics was infinitely worse. When Governor Miller came in, the chief advocate of the pay-as-you-go plan, when he arrived in Albany, he conceived it to be good politics to have a low appropriation bill, in the hope that this might be understood by the people of the State as representing a measure of economy in the conduct of the State's business. So instead of the seven millions that were certified to by everybody as required in 1921, he appropriated less than two millions. In 1922, when he was a candidate for reelection and proposed to stress all over the State the point of economy, he appropriated less than a million and a half—and that is where the hospital program fell down.

Well, the people of the State of New York expressed pretty clearly their opinion of that kind of economy on election day of 1922, and accordingly when I went back to Albany in 1923 we tried to speed it up again and brought the appropriation up to \$5,121,000, but it was too late. It was too late. Politics and war got in their deadly work, and the hospital system of this State was paralyzed.

What did that make necessary? That made necessary the submission of the proposal in the fall of 1923 to bond the State for fifty million dollars for hospitals. Now, when you speak about these costly structures the story is not told to the man on the street in terms of dollars. He doesn't get it.

A million dollars today, when it comes to the construction of a hospital, means so little but looks so big that it is always well to express it in other terms. Therefore, let us leave the money out of it and let us express it in terms of beds, new beds, for sick people to sleep in. In three years, under me, with the Senate and Assembly Republican, and the Assembly again Republican, and no politics, we provided 1,837 new beds. Under Governor Miller there were just 132 new beds provided.

Here is an illuminating document and it is worth while thinking about—figures right from the comptroller's office. In six years—that is from 1918 to 1924—the State Hospital Commission requested of the Legislature \$49,367,000. The Legislature granted—this is for construction, not for food, not for clothing or for coal, but for new buildings—of the \$49,000,000 required the Legislature granted \$15,000,000. Gentlemen, do not let anybody tell you that the Legislature was right about it, because the \$50,000,000 and the crash of 1923 prove that during that time the Hospital Commission was right and the Legislature was wrong. And if the Hospital Commission could be thirty millions above their actual requirements, then the members of the commission ought not to be commissioners but ought to be inmates.

Let us take that same period of time in the State charitable institutions, such as the Women's Relief Corps at Oxford, the House of Refuge at Randall's Island, Raybrook Sanitarium, the Craig Colony for epileptics, Letchworth Village, and the hospital at West Haverstraw for crippled children. Let us see the story in dollars and cents there. In 1918, while war was on, \$963,000; 1919, my first year, \$990,000; 1920, \$966,000. But in 1921 Mr. Miller, the chief advocate of the pay-as-you-go, arrives on the scene and the amount drops down to \$289,000; and to \$298,000 in 1922.

When I go back in 1923 we are in trouble. Up we have to go with the appropriations, and all had to be passed through the Republican Committee on Ways and Means, up to \$1,-483,000. And the crash came in the charitable institutions and they had to be neglected in the \$50,000,000 that was issued in the fall of 1923 for the hospitals.

What is the real trouble about it? The real trouble is that we have never had a program. Never. You never could get a program because you never knew that you could finance it. And as a matter of fact, no great public work in this State has ever been carried on year in and year out, except with money that was raised from the receipts from the sale of bonds. Don't let us fool ourselves about it. It is the fact, and history records it. Here is the debate in the Senate, as far back as 1905, on the proposal to bond the State for good roads. One Senator said, "Impossible, preposterous, bonding the State for roads; why, the road won't have half the life of the bonds." That was a good economic argument. No doubt about that, and it was true. But the other argument was more forceful, and it prevailed. The other argument was that you will never get the roads if you do not get them as the result of the sale of the State's bonds. You cannot have a continuing policy except from bond money.

From 1905 right up to 1922 the only activity of this government for which Governor Miller made full and adequate appropriation was the construction of highways. And why? Because he had bond money to do it with, and it did not count against the size of his appropriation bill. But let us get the figures. For hospitals, less than half a million. For all the charitable institutions, for practically every arm of the service of the State except good roads, inadequate appropriations. For good roads, 1921-1922, \$11,400,000. Why? That was bond money. That was not taken into

account when the size of the appropriation bill was figured up. Old Man Politics was kept out of that. It was a continuing payment.

I would be the last man in this world to deny that at times a good catchy phrase is useful for getting the attention of people who do not take the time and trouble to study the details of all questions. There has been invented a little catch phrase, "Pay as you go." It is fine; but the great trouble is that we do not pay and we do not go.

The chairman of the Real Estate Board said tonight that, naturally, real estate owners were interested in this because the interest is raised from taxation, and real property bears its large share, and all that. I should like to have the Real Estate Association of the State of New York employ a few expert accountants and see if these accountants could begin to figure up for the Real Estate Board the waste and the extravagance that has grown out of the pay-as-you-go plan as we have carried it on. You only have to appeal to just ordinary intelligence and ordinary common sense to understand the waste there is in letting half-constructed buildings lie idle all over the State for a period—of a year? Why, no—for a period of ten years. Why is it that a private corporation in New York will be able to put a building on the site of Madison Square Garden inside of seven months? The State of New York cannot do anything in seven months. It cannot build a prison in ten years. Why? Because it never has any money to do it with.

There has been a great deal of talk about Smith's program. I have not got any program. It is not my business to prepare the program. I have an idea, a conception, of government that is a little bit different from that of some of the men who are talking against this proposal. And I believe that a good executive gets along better by appointing people who know their business than by trying to appoint the other



kind and then doing all the work himself. This suggested program is a survey of the State's needs—not prepared by me, not prepared by the State architect—the State architect assisted with his professional ability. But the men who drew it up are the heads of the departments affected. Let us see who they are and how many of them are attached to me. There is the State Hospital Commission. I appointed one member of that commission, Governor Miller appointed the other two. There is the Commission on Mental Defectives: I reappointed Sanger Brown. He was originally appointed back some time in the days of Governor Whitman and has held the job ever since. The department of purchase, that is Frank Utter. He is a Republican. The prison department head is a Democrat. The Prison Commission is an overlapping body, and I have reappointed two of them; two of them are Republicans. The Charities Commission: I made no appointments. I have made two reappointments of existing members. The Department of Public Works, Colonel Greene, Democrat. Department of Health—Dr. Nicoll has been in the Health Department since 1913. He was promoted from deputy commissioner to commissioner upon the death of Dr. Biggs. The Commissioner of Education is a Republican, not appointed by me. The Conservation Commissioner is the Republican leader of Franklin County. The State Council of Parks, you remember, consists of a dozen men, three Democrats and nine Republicans. The Adjutant General, Republican, was appointed by me.

Those are the men who sat down with the State Architect, and, after a whole year of study, put down on paper the needs of the State. Let us see what these are and let us see how many of them, if any, are open to the slightest degree of dispute. Is there any doubt in the world that we need office buildings for the transaction of the State's business? Nobody can question that. Doesn't it look like a joke

for the great, powerful, and wealthy State of New York to be spending a million dollars a year for rent? The rent is not even the worst part of it. Look at the disorganization of the State's business. The public offices in Albany are spread out from New Scotland Avenue to the Union Depot. And let me say this that if any private organization in the State of New York crowded its employees in the way the State is doing it, the Department of Health would be after it.

The Department of Education, through the commissioner, certifies to me and to the State architect that the State's educational institutions are about sixty per cent of what they ought to be. Now we have got to stop this talk about education. Of recent years education has been a campaign issue. Everybody is for it—in October. It makes a great talking point. But when the time comes to step up to the doctor's office and make good in January, February, and March, there is nobody does it.

We have need, and have had for six years, for a new normal school in Westchester County to meet the growing needs of that county and the counties adjoining. The Geneseo Normal School—the Commissioner of Education himself asked me in 1924 not to sign an appropriation bill for repairs at Geneseo, upon the theory that the building is not worth the money that was sought to be spent upon it for repairs. Constructed in 1868, it outlived its usefulness twenty years ago, and the great State of New York, which seeks a pioneer position in the field of education, stands by, driving a few nails in it every year, to keep it from falling down.

For educational institutions of the State it is certified by the Department of Education and the State architect that we require \$8,500,000. For the institutions for the blind and the deaf we need \$1,500,000. The Rochester School for the

Deaf is the greatest indictment of popular democratic government that you could find any place. It is the mercy and the providence of Almighty God Himself, nothing that the State has done, that has kept it standing there, a wooden building, heated by a single stove from the basement. Some night an awful catastrophe will wake up the conscience and the heart and the spirit of New York and they will want to know why that continued for so long. It should be torn down and a new, modern, up-to-date institution built in its place.

The Legislature has authorized a memorial in the city of New York to Theodore Roosevelt to cost approximately three million dollars. Sing Sing Prison only cost five million dollars and it took ten years to build, and it isn't built yet; there are three million dollars of the five yet to be spent on it. So that if it takes nine years to build two million dollars' worth of prisons, how long will it take to build a Roosevelt Memorial? I should like to see it during my lifetime.

We have four secondary schools of agriculture. It does not make any difference how they got started, but we got them. Two of them would be enough, but we have four. We have never completed them. To complete them will cost \$1,500,000.

In 1920 the State and the trustees of Cornell University had an agreement to build \$3,000,000 worth of buildings to fill out the group of buildings at Cornell University, and we were to put up half a million dollars a year. In 1920 we put up the half million dollars and we built the dairy building. In 1921, however, in pursuance of economy we appropriated nothing. In 1922 we put up \$198,000 to equip the dairy building. I arrived back on the scene in 1923 and I insisted on the State living up to its bargain with Cornell University, and the \$500,000 was again appropriated, in 1923. So in 1920 we promised \$3,000,000 and in five years we have just

been able to give \$1,000,000 of it under the pay-as-you-go policy.

Now we come to the Department of Health. I notice in the program that was prepared by the architect and the Health Department that there is no provision for a new sanatorium for the care of tuberculosis. That is a matter for the Health Commissioner to settle for himself; but I believe we should have another hospital—either that or close up the one up at Raybrook, because we are doing more harm with it than we are doing good, for this reason: When a man applies for admission to Raybrook he has tuberculosis in its incipient stages. If he hasn't, he cannot be admitted. His name goes on the waiting list, and by the time he is admitted the disease has advanced. It would be better that the State closed up the institution rather than hold out the hand of false hope to the afflicted and the sick, who have reason to believe that the State wants to do something for them.

For parks and for conservation, in round figures \$18,000,000 are allotted. Now, the Congressman is going to make a great point on me tonight that we haven't spent the fifteen million already voted for parks by the people. This is looking ten years ahead, this is looking to 1935. \$15,000,000 for parks in this State isn't very much money. As soon as we get some common sense deep into the Senate and the Assembly leaders in Albany, in some way or other, we will get the parks. We will surely never get them on the pay-as-you-go plan. One of the greatest jokes in this State is our treatment of Saratoga. In 1908, we purchased the natural springs at Saratoga. We brought Dr. Hertel over here, in 1909, the superintendent of the bathing establishment and the drinking establishment at Baden-Baden. In 1924 I requested the Bavarian Government to send him over again to let him examine these waters in Saratoga, and he came



and reported that they were just as strong in volume and in medicinal quality as they were back in 1909. Why, we have in this State the greatest natural health resort in the world. Nothing in the Old World begins to compare with it, certainly nothing in this country. And here are people packing up their valises and traveling out to Mt. Clemens, to Virginia Hot Springs, to White Sulphur Springs, to French Lick, and to all these places that are advertised, and riding on the New York Central Railroad by the greatest health resort in the world, Saratoga County. There it is, and it belongs to all the people of the State of New York. And under this pay-as-you-go plan, this sacred and unassailable system of doing our public business, how have we developed Saratoga Springs? We have developed it by adding twelve bath tubs every year. That is the limit.

Take the military establishment of the State—and this is very important. The Constitution of the State of New York provides that the State must always have not less than 10,000 men under arms. The maintenance of an army is a very costly thing. Nothing costs as much money as taking care of the army. And we never had more than 10,000, because we did not want to have any more. But when we entered the War the State troops were federalized, and under the provisions of the National Defense Act of 1920, we were supplied by the Federal Government with all that was required to maintain the army; but inasmuch as we were in the Second Corps area, the vital part of the United States, and the State of New York was the largest of all the States in the area, and probably larger than three others put together, we were required to keep not 10,000 men, but 23,000. So we have the 23,000, and what are we doing with them? We are trying to train them in the quarters that they used for the 10,000, and the great State of New York is hiring property for armories. Nothing could be more stupid. Noth-

ing could be more unbusinesslike. For armories, it is certified by the military authorities of the State, working with the State architect, we should expend in ten years \$6,500,000.

Now, prisons: We have two old prisons in this State, one of them is 100 years old this year. It is just celebrating its one-hundredth birthday. And the other one is its older brother. Sing Sing and Auburn.

Let me read to you what President Roosevelt said about Sing Sing Prison when he was Governor of New York, twenty-six years ago: "The condition of the cells in the several prisons is a matter to which the attention of the Legislature should be directed. Auburn Prison was built in 1817, Sing Sing in 1825. It would almost seem that the time has come when these cells should be renovated and placed in a more sanitary and healthful condition." That is what Roosevelt said. Roosevelt was not nearly as harsh as Governor Odell. As far back as 1904 Governor Odell said, "For humanitarian reasons ample provision should be made at once for remodeling the present State prisons. That source of disease, the foul, damp, and unhealthy cell, should be relegated to the past." That was 21 years ago. And by the way, there is a convincing little argument for the pay-as-you-go man. Let him take that home and read it. This is a copy of the *State's Charities Aid News* of February, 1917. It is eight years old, but read it. The title of it is, "This is not the year." And every governor from Roosevelt down to date—I will put myself in—has had occasion at some time or other to write a veto memorandum containing the words, "This is not the year." If I look down into my heart and conscience as I approach the ballot box on Election Day, and want to do what that conscience dictates to me is best for the State, if I read just a few of these documents, I shall be satisfied that my vote will be recorded against the

pay-as-you-go as it has operated in this State for the last twenty years.

In 1915, years after Governor Odell had spoken about it, and years after Colonel Roosevelt had spoken about it, this thing was brought to the attention of the State of New York. Why? Because of the large number of men that were transferred from Sing Sing to the tuberculosis pavilion at Dannemora. Now, I am not soft-hearted about it. I have had a good deal of experience in this world. I have fought along all during my career, and I am not easy. If anybody thinks so he is making a mistake. But I want to say this to you. I don't overstate it when I say that the heart and the conscience of the people of this State never intended to take away the health of a man because he had offended against society.

Let us see how we get a prison on the pay-as-you-go plan. We started this new prison in Sing Sing in 1915, started to build it piecemeal, a little bit at a time. Up to date we have spent \$2,457,000 on it and we have just got 300 cells, but we have eleven or twelve hundred men still sleeping in the cells that were condemned by Odell and were condemned by Theodore Roosevelt. Well, why have we not got the prison under the pay-as-you-go? We have got all the cheap parts of it. But the cell blocks cost money. They cost \$2,170,000. And this is not the end. And that has been the story of Sing Sing Prison. I should like to have some expert accountant figure out for me the waste of the State of New York in trying to do its business that way. Wingdale tells the same kind of a story, except that we salvaged out of that a State hospital. But it ran up against politics, just the same as all other great public works when you find no appropriation for them, although in 1921 and 1922 the State kept three shifts of engineers in the engine room to keep steam on the building so that it would not go into decay.

Governor Smith said in closing the debate of the evening:

I am not going to mention money any more or say a single thing about it, but I am going to talk about what the real trouble is.

Now, what is the trouble? Where did this proposal come from? Did it spring up out of the ground? Why, not at all. It was figured out in the Executive Chamber in the spring of 1924. Who was present at that conference? Speaker Machold, the Republican Speaker of the Assembly, Joe McGinnies, Chairman of the Committee on Ways and Means, a Republican, and myself. That is where it came from. It was all right in 1924. Every Senator and every Assemblyman voted for it. And in 1925 every Senator and every Assemblyman voted for it the second time, after they had had a year to study it. Now, what happened to it? Why, throughout the length and breadth of the State today, outside of the Republicans that are amenable to the little local county boss, every one of them wants to know where all these leaders were during all this period. The men that have spoken against this bond issue in the last month could have stopped it with a wink of an eye if they had wanted to do it. The Lord knows that they dropped everything else that meant any progress in government.

I heard the whole story of how politics came into this. We had a little fight in Albany over tax reduction. I did not invite the fight, but I did not run away from it. Now, when I won that fight it was necessary to do something, and they made up their minds that they would sail into this proposal, thereby making fools out of the representatives of their own party, which had stood for it in two sessions of the Legislature in succession. This bond issue was the lone thing that was left to attack me on, with a hook to drag me down. Now it does not make any more difference to me than to any



other citizen of this State what becomes of this proposal. I, with every other citizen of the State, will be willing to stand with the will of the majority when it is expressed. But I have put in nearly my lifetime in work for the State of New York.

I have given it every hour, every second, and every minute of my time. I have been engaged in nothing else, nothing except the work of the State of New York during all of five years. I feel, naturally, a great gratitude to the people of this State for the way they have so signally honored me, and I am not going out of office without doing every human thing that I can to correct a situation that I am prepared to declare in the presence of God Himself needs correction.

## A TYPICAL FINANCIAL ACCOUNTING TO THE PEOPLE

This is a straight-from-the-shoulder talk to the Merchants' Association of New York City, delivered at its luncheon meeting on June 11, 1926, on the financial condition of the State government. It contains suggestions for improving the government along fundamental lines by constitutional amendment. At the conclusion of the address is one of Governor Smith's simplified annual financial statements, "understandable to the man in the street."

I consider that my message today takes on two forms: first, a kind of short, quick report on the general financial condition of the State; and second, suggestions for betterments that will have to be worked out in the future.

The first thing we all do when we sit down to have a meeting of the board of directors and talk about the general affairs of the business that we are all interested in is to find out how much we owe.

On the first of July, the State will owe its bondholders \$315,521,000. On the first of July, we shall have in the sinking funds of the State to meet that indebtedness \$92,579,198.36, and as annually computed in the office of the comptroller, there will be made from the current revenues of the State a sufficient appropriation to the sinking funds to meet every one of these obligations at maturity.

The next thing we do is to take a little look in the cash drawer. On the first of June we had in the cash drawer \$196,058,670.51, either in cash or levied by taxation and to

be collected during the fiscal year that begins the first of July.

The next thing we look at is what it costs us to operate the State for the next fiscal year, and we have that figure at \$185,896,833.36. So that, after we have provided for all our necessary expenditures, we shall have in the savings bank a clear, free, cash surplus over and above every obligation of the State of \$10,161,837.15.

In spite of this, we were pretty good to our taxpayers and we made some returns to them this year. In income taxes we returned by the twenty-five per cent reduction and the narrowing of the base of taxation exactly \$20,500,000. We returned to the taxpayers and real-estate owners, in the form of a percentage of the so-called direct tax, \$10,397,610. In all, \$30,897,000. That was upon the theory that the State should never exact in any one year from the tax-paying public any more than is required to operate it in that year, plus a reasonable surplus in case of danger. We were assisted in bringing about so favorable a result by bonding ourselves for the long-term permanent improvements by means of the constitutional amendments passed last year.

The man who can perform the greatest service for this or any other State is the man who will invent some patented process whereby financial figures will be taken out of the realm of political discussion. Because you can never get anywhere talking about them. There is an old-time saying that figures do not lie, but we have no insurance against the fellows that make them.

This time a year ago I was having a little discussion around the State about the bond issues. I spoke about them in Buffalo and in New York and in all the five largest cities of the State. It became a political question. There was no reason for its being one. It was purely a business matter. It was the first time in the history of the State that the

officials of the government sat down around the table and laid out a program ten years in advance. We had been meeting each year as it came and did the best we could; in every even-numbered year appropriations were low upon the theory that when the Governor has got to run again low appropriations may be mistaken by some voters for economy. And that form of economy proved more wasteful than spending the money upon the necessary things that the State had to have.

I wrote to the Merchants' Association about the bond issues, and I was surprised to get a letter back saying that you did not feel like taking any position because this was politics. Everything in government is politics. The question for business men to determine is whether a given question belongs in the realm of politics or not. You cannot keep it out. Democrats are going to oppose Republicans and *vice versa* while we have a party system of government. In a couple of months you will see in headlines all over the State: "Save the people from the recklessness of the Democratic government!" Of course, the man who puts it out expects that everybody who reads it is going to be without the information that the Legislature in control of the other party made all of the appropriations.

However, we will overlook your failure on the bond issue because we have some other things to do, and I am not going to quarrel with you because I want some other support, and there will be politics in that too when it comes along.

The appropriations for the support of government increased this year over last year by approximately fifteen million dollars. There is no use for any man to promise anybody that he is going to reduce the cost of government. If he can make good the promise that he will keep it where it is, that is as much as he can do, unless the people themselves



are ready to give up some of the activities in which the government is engaged. We hear talk about economy in Washington, but the difference between Washington and the States is that Washington has been moving down from a war basis to a peace basis. It does not cost as much to run the government in times of peace as in war. On the other hand, all the States that were patriotically following the request of the Federal Government during the war by refraining from carrying on any activities they could allow to wait have been going in the other direction, and consequently the cost of government has got to go up until they catch up to where they lost out during the period of the war. Of those fifteen million dollars, eleven and a half million went to the support of common schools. Nine of the eleven and one-half million represent additional State aid to rural schools, where the low assessed valuation of the property in the country sections of the State is keeping back the progress of the common schools. They might be said to be the contribution of the large and wealthy portions of the State to the sparsely settled sections, so that every citizen may have the satisfaction of knowing that he helped the State in the educational field. A million and a half of that were an additional appropriation for indemnities for the slaughter of tuberculous cattle. That is a public-health work. It is done in the interest of the ten and one-half million people that live in the State of New York, and when once completed, with proper quarantine regulations, the State of New York will have a dairy herd entirely free from the menace of tuberculosis. The balance of the increase represents increases for the judiciary throughout the State and the average normal increase in the appropriation to meet increased numbers of patients in the State hospitals and to meet the sliding scale of wages for employees throughout all of the institutions, including the prisons.

During the debate on the bond issue we heard a great deal of talk about buying laundry machinery with bond money. Of course that was said for effect. The ten million dollars of bond money that were released this year were used absolutely to carry on and finish out work already begun by the State: construction of the Poughkeepsie Bridge, the Health Laboratory in Albany, the Teachers College in Albany, and the completion of Sing Sing Prison. Every dollar was expended either for land that will remain the property of the State forever, or was put into permanent construction that will have a life far in excess of the life of the bonds themselves. Let me incidentally mention that not a dollar of the bond money goes into the expense of administration. The State architect's office received a direct appropriation from the current revenues of the State to carry on the work, although in business it is the custom to charge up administration to the job. Every dollar of the ten million goes into a permanent improvement. The same way with the twelve and one-half million from the so-called institutional bond issue. Of those twelve, four million alone were put into the completion of Marcy Hospital. At this point, let me emphasize what I said last fall. Marcy Hospital was started in 1917 and in 1926 there is four million dollars' worth of uncompleted work. Had it not been for the bond issue, Marcy Hospital would not have been constructed in the next six or seven years. Business men may not get the point quickly. I will give it to you in a few words. That is where politics comes into State finance. Bond money does not count against appropriations. The direct appropriation alone counts. And when the Governor and the Legislature are trying to make a political record for economy, they keep everything out of the appropriation bill because that appears in the total. Bond money does not appear in the total, and therefore you can progress public work with bond money no matter who is

Governor, because he has no rule that interferes with the expenditure of that money. There is our trouble.

We started Sing Sing prison ten years ago—built every bit of it except the place where the prisoners sleep, and there must be a good reason for that. We have put into the bond money this year for Sing Sing prison close to three million dollars.

The cell block costs nearly three million dollars. That is the biggest part of the job, and there has never been a year when the Legislature and the Governor together were ready to put three million for one project into the appropriation bill at a time.

Now exactly six years ago, but at an earlier period in the year, I sat on this rostrum as the guest of the Merchants' Association and I talked about the reorganization of the government. Nobody said No. Senator Sage was the most powerful figure in the opposite political party to me in Albany, and he was at this table. He did not say No. But what happened? Why, it took us six years to get it. We just got it this year, although there never was a man, woman, or child in the State of New York that even made any reasonable argument against it. I believe that it is probably as constructive a piece of work as has ever taken place in this State.

You all read in the papers about the work that was done by the unofficial commission headed by former Governor Hughes, of which Mr. Marling, the chairman, was an important and hard-working member, and as a result of it, on the first of next January we shall have an understandable government in this State. We shall have every activity of the State in nineteen departments, so that the Governor of the State can sit around a small table with the heads of the different departments and discuss the whole business of the State from one end to the other. And we are getting away

from the worn-out, dilapidated, and broken-down old State machine that we call the State government, with its 170 odd boards and commissions spread out like fans all over the State, compelling a governor to spend a large part of his lifetime in Albany to get an understanding of what it is all about. I shall have the prayers—at least the prayers of my successor—because he will talk to nineteen men. I have been trying to talk to nearer 17,000 for four years.

The reorganization of the government, however, is not complete without two more important reforms. They interlock. They work together. The reorganization of the government will not have the success that was predicted for it unless the other two reforms operate with it, and the first of these is the Executive Budget.

There is no use trying to run this State under the present fiscal system with any degree of intelligence. It can't be done. It might have been all right back in the days of Governor Silas Wright, whom we hear spoken of as the man who safeguarded public borrowing and public expenditure and all that.

I went over to the Education Building and I looked up the appropriation bill in Governor Silas Wright's time, and the only State hospital that we owned then was up in Utica. And I saw an appropriation for a new wing to the hospital, 200 feet long and 220 feet wide, and the bill was \$65,000. The whole cost of the government for that year was only a little more than one million dollars, and we are attempting to work this machine at 185 million dollars, and it isn't exactly the way we did it in the time of Silas Wright.

The great trouble about it today is that the business of appropriating public money is in the hands of 201 men, and Senator Sage from this platform here in 1920 made the statement that there were ten men in the Legislature that



knew what was in the appropriation bills; I said, "You are generous, Senator."

In order to have an Executive Budget we must amend the Constitution. The proposed amendment has passed the Senate and the Assembly of this year and will go to the newly elected Senate next year. I want to give you a warning. Keep your eye on that, because we passed the reorganization amendment over in 1920, and you men had a good deal to do with it. The impression that was created on the leaders of the Legislature by your luncheon here in 1920 in this room had a good deal to do with it; but in 1921 when it was to pass again, you lay right down, and the result was that instead of it being passed by the newly elected Senate, it was thrown in the waste basket; and I had to go back to Albany and start it all over again in 1923, so that you might have the benefit of it in 1926. Now, therefore, the warning is, keep your eye on the next Legislature and see that they don't sidetrack the proposal for the Executive Budget. It will be the first year of the term. There will be no election that fall except for sheriffs and county clerks, and they will all be elected on a wet and dry issue.

The Executive Budget proposal is very simple. When you read it over, of course, it is in all that fancy Court of Appeals language. You won't understand it so well. But when you get right down to it, this is what it does: It allows the Governor to call in the nineteen department heads and to sit down with them and prepare a bill making provision for the support of government. That bill will go in as the Governor's budget, the Executive Budget; the Legislature can reduce an item, but it cannot increase it. It can add a new item, but it must add it in such a way as to let the Governor take it out if he doesn't like it. In effect, in the last analysis, by the two-thirds power they can pass anything they please

over his veto—so that all this talk about taking away from the representatives of the people the power of the purse strings is all bunk. I would be the last one in the United States of America who would do anything like that, not to speak of proposing it. I am not changing the relationship of the Legislature to the Governor. I am not changing the relationship of the people to their representatives. I am not taking from them one iota of power that they now possess.

What the Executive Budget amendment does is this: It says to the Legislature; "Gentlemen, come out from behind the screen and do your work out here in the open."

So much for the Executive Budget. The next thing is the four-year term for the Governor. Don't be afraid to plunge into the four-year term discussion, even though it is political, absolutely political. The Legislature this year proposed an amendment to the Constitution for the four-year term, but in doing it they have reversed entirely the accepted policy of the State for a quarter of a century, if not for thirty years. By doing what? By providing that the Governor must be elected in the same year that you vote for a President of the United States. Well, of course, that is obviously such a little piece of cheap, political advantage that intelligent citizens of all parties will laugh at it. It shouldn't pass. It is a good deal better that we keep the present system for a few more years than to have anything like that. And if you want justification for disapproving it, read the debates of the Constitutional Convention of 1894 and read what Joseph H. Choate said when there was written into our Constitution a provision that you couldn't elect a mayor of the city the same year that you were electing a governor. That is the fixed policy of the State. It is right in the Constitution and the reason for it, as given in the debates of the Constitutional Convention, is that they wanted the mayor of the city or the Governor of the State selected at a time when the

public mind wasn't distracted by any other question. And in the face of a quarter of a century of experience, our friends now want to suggest that you will never again elect a governor in this State except on the day when the public mind is going to be absorbed with the great, large questions that affect the whole nation.

Now, I absolutely disclaim any politics from my part of it—absolutely. My party has elected governors only three or four times in thirty years. I am putting it upon the broader and greater basis of the interest of this State. I think that you will get a better man from either party when he has got to stand up by himself and not be dragged through by the ears.

We don't want to be electing governors on tariff issues or even on prohibition issues. The Governor has nothing to do with the League of Nations. So while you are preparing the resolutions, just give that proposal a good hard kick, and let the Legislature start it by electing the Governor in the year when nobody but the Governor and the State officers are running, so that we can compel a discussion of the things that have to do with the business of the State of New York.

There is one last thing. This was only started this year. You know you have to start these things several years in advance to get anywhere with them. We have been discussing the four-year term for the last six years, and the Executive Budget for over six years, and we are just getting it through for the first time. So I open the door this year for a new proposal, and that is a little curb by the people themselves on the law-making bodies to the extent of stopping the passage every second year of any law except provision for the support of government upon the recommendation of the Governor.

Let us see why we want to do that. I picked up a little paper only the other night. I knew I was going to talk about

it—at least, I had it in mind. It comes from the *St. Louis Post Dispatch*. It talks about the volume of laws made in the country during the year. Broadly speaking, the public knows very little about the 4,100 new laws of this year or the bumper crop of last year. I am going to put the discussion of this upon a strictly business basis, and it is this: The business of the State is growing so that unless the Legislature remains in session fifty-two weeks out of the year, it is impossible for them to conduct the business of this State intelligently. So much of it is conducted by law that they would have to be there every week in the year in order to do it with intelligence and with thought, and the result is that it is done the other way.

Now, I propose that in the first year of the Governor's term, the Legislature have full latitude. The Governor shall present his policies and promises. General amendments to the statute and constitutional law shall be in order that year; but the next year nothing is to be in order except provision for the support of government. That is going to accomplish a number of things. In the first place, it is going to give us a law that has at least a year to live before it is struck to pieces again, unless some emergency arises; and we provide for that by giving the Governor the power to suggest, just as we do now in extraordinary sessions of the Legislature where nothing is in order except on message from the Governor. But more important than that is the fact that it will compel the members of the Legislature, at least every two years, to pay some attention to the fiscal business of the State, and they don't pay any to it at the present time. It is the work of three or four men, and the members of the Legislature do not do that work. Why, look at the knowledge of the State a legislator would get if he were compelled to discuss the appropriations for the support of the government. If there were an intelligent discussion lasting



over two months out in the open and in Albany on every dollar of money that is in the appropriation bill, the members of the Legislature themselves would be the chief beneficiaries, because they would find out exactly what the government of the State is doing. Nobody knows about it today. A great many things that happen are accidental. One man conceives a good thought. He puts it through. But as far as the great big body itself is concerned, they give no time to it. Why? Why? Because they are entirely engrossed in a lot of minor, little, detail things that have got great interest at home, in the locality they come from, but not State-wide interest of any kind; and, therefore, all the little local small-town stuff has preference on the calendar as against the big questions that affect the ten and one-half million people.

This year, 1926, the Legislature passed fifty-two different amendments to the fish and game laws! It has been variously estimated by the Department of Education that it costs the State of New York all the way from \$900 to \$1,100 for every bill that passes. According to that we spent about fifty thousand dollars this winter amending the Fish and Game Law. Who in the whole State is sufficiently interested in the size of a wall-eyed pike to have to define its dimensions by law before you can take it? Go up to the lobby of the Assembly or the Senate where they are considering the important highway-appropriation bills on the calendar, carrying as they did this year \$32,000,000. Everybody is talking and visiting among themselves and finally the clerk reads off: "By the Committee on Ways and Means, an act to provide for the construction, maintenance and repair of the State Highways." The Speaker says: "Read the last section." "This act shall take effect immediately." The Speaker leans down to the clerk and says: "Call the roll." "149 Ayes; no Noes." Nobody votes against it; nobody is interested in it. It is \$32,000,000 for highways—that is all. But be in that same place the day the bill is on the calendar that has to do

with whether or not you may take an eel out of the Delaware River. You'll hear endless debates.

Therefore I want to say by constitutional law that at least every two years you are going to let the fish and game alone. You are going to stop disturbing county officials around the State. You are going to stop meddling with the salaries that are paid for county officers through the State. You are going to let the government run along itself for one year and forget all about that and sit down here and figure out these \$185,000,000 and become better acquainted with the real business of running the government, which is the appropriation of public money for its operation.

Coupled with that is this question of county government. Why, I can think of nothing that is as ridiculous as our present system of county government. We got it back from the days when the king had something to say around here. It is breaking down, the old town form of government. It is breaking down, but it is all fixed in the Constitution, and in 1924 county governments in the State cost \$47,000,000. It is difficult to change this. I see all the difficulties in the way of it. Both in the city and in the country, the county provides the patronage that means the nucleus of the machine, and it is hard to disturb it. It is hard to interfere with it. You can always find a patriotic reason for keeping it.

Here we have a little county along the Hudson River, Putnam County, with 10,500 people in it. It has got to have a sheriff and deputy sheriffs. It has just practically the same county government as the County of New York, with the exception that the county judge also acts as the surrogate; but outside of that it has all the same machinery for 10,000 people. Why, as a matter of good business it ought to be strung on to Dutchess or to Westchester County. Over on the other side you have Rockland County with about 17,000 people in it. Throughout the State you have about thirty

counties with fewer than 35,000 people in them. In every instance this is an expensive form of local county government. I can understand and so can you, that over fifty years ago, or even thirty years ago, it might have been all right. But, today, with the automobile and other means of travel—and everybody has a car in the country—why do you have to have Schuyler County with its county seat only eighteen miles from Elmira? People in New York here come from Washington Heights down to the City Hall to go and see the county clerk, and that is more than eighteen miles. And here you have got to have the county officers all together. Well, of course, when you talk about that, they will speak of the old neighborhood pride. This county was named after General Somebody—there is a tradition to it; every man that ever left this county made a mark in the world, and we want to keep it. If you want to keep it, keep it, but stop talking about economy. Pay for it and put some of the responsibility back home in the county and don't have it all operated from Albany. Don't have 201 men fixing all the salaries and doing all the work for all the county officers around the State. Put it right there so that the people in the county, if they want to stick to their old tradition as a matter of patriotic spirit, will know they are paying for it and doing this themselves and not blaming the State government for what it has done.

Now I think I have about covered the field, and I think that my time is up according to the program. In conclusion I want to thank the Merchants' Association for the real help that they have been, particularly for the very intelligent report that they rendered to me, which guided our action in the so-called railroad grade crossing removal bill, or steam railroad removal bill, in Greater New York, and for the other things that they have been solidly behind.

I thank you very sincerely and very cordially, and invite

you to take part in the rest of the program. I hope that you will make the great influence of this organization felt for these things, whether they are politics, or whether they are not. You have got to get into politics if you want to help the State.

#### FINANCIAL STATEMENT OF THE STATE OF NEW YORK

On July 1, 1925, the State owed to its bondholders .....	\$318,456,000.00
Since July 1, 1925, the State paid to its bondholders upon maturity of their holdings....	2,935,000.00
On July 1, 1926, the State will owe to its bondholders .....	315,521,000.00
In advance of the sale of bonds authorized for park purposes and for building improvement, the comptroller has issued temporary loan certificates amounting to \$1,075,000.	
The State will have in its sinking funds on July 1, 1926, to meet the above indebtedness, approximately .....	92,579,198.36
Annual contributions from the tax levy will be sufficient to meet all the bonds at their maturity.	
On June 1, 1926, the state comptroller estimated resources available to meet appropriations by the 1926 Legislature to be.....	196,058,670.51
Appropriation Bills passed by the Legislature and approved by me in 1926, amounted to..	185,896,833.36
Taking this amount from the total estimated resources, we have a clear, free cash surplus of .....	10,161,837.15
In addition to the above surplus, we were able to continue the 25% reduction to our income-tax payers and also grant to them increased exemptions, which saved to this class of taxpayer the sum of.....	20,500,000.00



We were also able to reduce the direct tax from  
 1½ mills to 1 mill, saving to this class of  
 taxpayer the sum of..... \$10,397,610.00

Total appropriations, 1926....	\$185,896,833.36
Total appropriations, 1925....	169,719,834.33
Increase over 1925.....	16,176,999.03

Itemized account of increased and new appropriations

*Increased appropriations for existing activities*

Support of common schools..	\$11,850,000.00
Tuberculous cattle.....	1,500,000.00
Judicial bodies.....	709,583.34
Physically handicapped children	35,000.00
	<hr/> \$14,094,583.34

The balance of the increase in appropriations is the average normal annual increase in salaries to institutional help.

*New Activities Undertaken by the State*

Hospital employees retirement fund .....	\$ 840,000.00
Johnson Iron Works—judgment	2,266,901.52
Johnson Iron Works—right of way .....	23,649.58
Nassau & Erie County Roads..	1,000,000.00
Sesquicentennial—Philadelphia .	100,000.00
Battlefield sites .....	75,000.00
American Revolution.....	75,000.00
Erie Canal celebration.....	25,000.00
State Housing Commission.....	100,000.00
State reorganization.....	25,000.00
Crime Commission.....	50,000.00
New Office and commission on site, etc. ....	50,000.00
	<hr/> \$4,530,551.10

## DEVELOPING THE PORT OF NEW YORK

Governor Nathan L. Miller appointed his predecessor, Governor Smith, a commissioner of the Port Authority. The commissioners serve without compensation. During the first year of his service on the commission, Governor Smith was also head of the United States Trucking Company. His contact with the work of the Port Authority and his practical experience in the trucking business gave him a knowledge of the difficulties of moving freight within the port of New York.

In the campaign of education to familiarize the public with the complex problems of freight distribution and port development contemplated by the comprehensive plan worked out by the Port Authority, ex-Governor Smith dramatized a set of facts usually considered dry and uninteresting, in an address on the Port Authority and the Development of the Port of New York, delivered at the Lawyers' Club, March 18, 1922.

Next to the Eighteenth Amendment to the Constitution, port development is about as dry a thing as you can think of, because it contains so much of engineering statistics. In order to get a proper understanding of it, we must go back a little bit in history to find out why we have defined by law a Port District, why we have a Port Authority, and why that Port Authority, brought into existence by the Legislatures of this State and the State of New Jersey, has proposed a comprehensive plan for joint development of the port of New York.

In 1916 the State of New Jersey petitioned the Interstate Commerce Commission for a differential freight rate in favor of that State as against the State of New York. They held, in effect, that the nine trunk-line railroads coming

from the West and South really had terminals in New Jersey, and that the car-floating of freight to the Island of Manhattan and to the Boroughs of Queens and of Brooklyn was not strictly a railroad operation.

The differential requested by the State of New Jersey was three cents a hundred pounds, or sixty cents a ton. Naturally, that request was very bitterly fought by the State of New York, because it takes only a layman really to understand what it means to the business man of the city of New York, if the man engaged in business on the shores of New Jersey, or of Newark Bay, or in its manufacturing sections, were to have the benefit and advantage over him of sixty cents a ton on the millions and millions of tons of raw products that come into this port to be manufactured.

After the argument, the Interstate Commerce Commission denied the petition of the State of New Jersey, but did not close the case. The Interstate Commerce Commission, in its report, said that historically and geographically the port of New York embraced both States and suggested that both States come together and agree to develop the port jointly, and, as an inducement to bring about that agreement at as early a date as possible, the pending question, the application of New Jersey, was left open and left on the calendar of the Interstate Commerce Commission.

Accordingly, in 1917, both States by legislative enactment created what was known as the New York and New Jersey Port and Harbor Development Commission, commonly referred to for convenience as the Bi-State Commission.

That commission was made up of three men from New Jersey and three from our own State. They began a study of the terminal operations, of the cost of doing business incident to the old-fashioned handling and rehandling of freight and incident to the antiquated manner and method of float-

ing the freight around the waters of the harbor, and reported back to the Legislature. The substance of their report was the proposal to create a Port District, by treaty between the two States, and to have it presided over by a Port Authority, who would prepare plans and supervise the development of the port jointly between the two States.

Let us just see what the problem is. The population of the Port District is eight millions. It contains 105 separate and distinct municipalities. Its area is close to 1,500 square miles. It has a water front of 771 miles, of which 578 miles lie in the State of New York and 193 in the State of New Jersey. Measured around the piers that project out into the water, the total number of miles of water front within the Port District is 991.

It is estimated that seventy-five million tons of freight annually move into or out of the port by rail and forty million tons by steamship. Freight cars that enter and leave during the year would fill eight tracks across the continent from New York to San Francisco; and an ocean-going steamer comes in and goes out every twenty minutes of daylight time every day in the year.

The value in 1920 of the foreign commerce of the port was more than \$18,000,000 a day. There are approximately 200 companies operating ships into and out of the port. Approximately five thousand vessels annually enter and clear the port in foreign commerce and nearly as many more in coastwise service. The tonnage of vessels in foreign trade entering the port in 1920 was 17,404,188, which was twenty-seven per cent of the total tonnage entering the United States.

A great many people have been of the opinion that this is a railroad problem. It is not a railroad problem. The railroads have themselves had ample opportunity to cure this



situation. They have known of it for years, and it is because they have been unwilling themselves to do anything about it that the power and the authority of the Government itself must be exercised through some instrumentality to compel them to do it.

It is a problem in the first place that affects the business life of this community.

It costs as much to pass a ton of freight through our New York terminals as it does to haul it from Buffalo.

Now, why should that strain be put on the business life of the greatest city in the country? Why should the man who is doing business at the port of New York be compelled to carry that handicap as against his competitors at all other ports?

I think we will all agree that New York has stood up as long as she has under that strain just because she is New York.

It is a household problem. It is one that affects the housewife, because, of the 70,000,000 tons of freight that came in and out of the port in 1914, 53,000,000 of it remained here for ultimate consumption, and a large part of that is food, naturally, and a large part of it is the raw material that enters into the manufacture of clothing and everything necessary for everyday life.

The conditions at our port are receiving recognition in the Congress of the United States itself, where every fact and every figure have been laid before the Rivers and Harbors Committee to show the impossibility of doing business at the port of New York, not only because of the cost but because of the great delay.

We can not make this island over again. There is no way you can widen these streets downtown. They were laid out at a time when the City Fathers met in the basement of the

City Hall and were not sure whether they were going to pave them or put canals through. It would have been nice if they had made canals out of them. Instead of being in the trucking business, I should be in the row-boat business. But we have them, and there is no cure for it, so far as changing the geography of the island is concerned.

It is important that we proceed with port development for another reason, and a very important one; that is, that we are unable under present conditions to meet the competition of the other ports on the Atlantic and Gulf Coast.

When the figures were prepared by the Bi-State Commission as to the cost of operations, they hesitated to make them public, because they constituted in themselves such an argument against doing business at the port of New York; but they ultimately deemed it necessary in order that the proper impression be made on the Legislature, not only in our State, but at Trenton, in the State of New Jersey. The city of Baltimore took our own figures—the figures that we prepared—and used them for whole-page advertisements in newspapers throughout the country, advising everybody how much cheaper it was to ship through the port of Baltimore than through the port of New York.

In 1921 the Legislatures of this State and of New Jersey adopted a treaty providing for joint development of the Port and containing within it provision for the agency for carrying it out. That treaty was ratified by Congress and the President in August of 1921. Accompanying legislation in both States brought into existence the Port Authority. When originally created it was a student body, and it was directed by law to study the plan put forward by the old Bi-State Commission or any other plan that might be submitted.

Accordingly, the Port Authority organized in June of 1921 and began the study of the Bi-State Commission plan and some twelve or fifteen other plans that were submitted

by engineering societies, by individuals, and by trade and commercial bodies throughout the whole Port District, and in January of 1922 it submitted to the Legislatures, at New Jersey and in New York, a comprehensive plan.

That plan has been adopted by both States, and the Port Authority, by subsequent legislation, is directed to see that it is brought into existence.

First, what is the problem?

We have twelve trunk-line railroads entering the port of New York. Nine of them enter on the west side of the port, which is Jersey, and three of them enter on the east side of the port, which is New York.

The beginning of the problem is how to link them up together, in order to avoid the costly operation of car-floating. What happens at the present time when a carload of freight originates in Pittsburgh and is bound for Brooklyn, or for the Bronx, or further east—for Boston or Providence?

It comes into the break-up yard in Jersey, goes from the break-up to the classification yard, finds its way finally to the water front in Jersey; it is pulled into a car float; it is car-floated down the North River and to the Battery and up the East River, through to the Jay Street Terminal or the Eastern District Terminal or the South Brooklyn Terminal at Bay Ridge.

In a picture prepared by the Bi-State Commission that operation is graphically shown forth by an animated cartoon entitled "Mr. Potato." A sack of potatoes is followed from the Jersey break-up yards to the retail grocer in the Bronx, and by the time that sack of potatoes finds its way to the vegetable counter of the Bronx retail store the calculation is made that it cost twice as much to take it from Jersey up and into the Bronx as it did to pull it from Michigan into Jersey; and it takes a greater number of hours.

The animated cartoon shows Mr. Potato occasionally escaping through a break in the door of the freight car and looking around him; he thinks he will never see Manhattan Island. It is twenty-four hours between the break-up yard and the water front.

The water front property of this port was never intended for railroad occupation. Go along your own West Side here and see the miles and miles of property devoted to railroad operation. That is too old-fashioned. What would you think if we went entirely by ferry boats between here and Brooklyn and got rid of the bridges and got rid of the tunnels? And if you had the foot of Wall Street and the foot of Roosevelt Street and the foot of Catherine Street taken up entirely with ferry slips, as they were years ago?

Here we have steamboat lines knocking at our doors, on Manhattan Island, seeking the thing that piers were intended for. Piers were built out into the river to let steamboats come up alongside of them and unload their freight; and we are unable to let them do this, because the whole water front, or the best part of it, is almost entirely taken up with float barges and float terminals for railroads.

Consider what it must have added to the cost of constructing the Woolworth Building, when you take into consideration the fact that every pound of material that went into it was trucked from Thirty-sixth Street.

There are no open piers on the North River. Walk from the Battery up and the first one you meet is at Canal Street, and half of it is devoted to a dumping board for the Department of Street Cleaning.

After you leave it, the next one is at Gansevoort Street.

So that the hooking up and the union of these different lines and the bringing of the freight across by all-rail to the different parts of the port will relieve the water front and turn it over to its natural and normal use—for ships.



The Port Authority set forth several fundamental principles that should be observed in sensible, businesslike port development.

No. 1 is that the terminal operations within the port should as far as practicable be unified.

Let me say that that is one of the fundamental difficulties—the lack of unification of terminal facilities.

During the war, when the railroads of the country were used as engines of war, and they were under single control and under Government direction, the regional director for the eastern part of the country commanded the unification of Jersey operation; and every engineer and every railroad man and every terminal expert, if he wants to stand close by the truth, will have to admit that had it not been for that unification of terminal facilities in Jersey, when the great pressure was put on this port during the war, the port itself might have cracked. We should have been unable to stand the strain.

Well, somebody says, if it is good, why do the railroads not do it themselves? The perfect answer to that is that competition will not let them do it. The next question is, "Then should we stifle competition?" In railroading, yes—because it is the one competition that the people get nothing from. There is no difference in railroad rates. They are not fixed by the railroads; they are fixed by the Interstate Commerce Commission.

What the railroads do hold out, however, is the promise of better service, but they have been unable to give it.

The unification of terminal facilities in Jersey, if nothing else happens, will be the first great step toward cheapening the cost of operation.

Part of the cost of operation here is due to this competition; competition not based upon better rates, but competition directed at certain lines of business.

Second, there should be consolidation of shipments at proper classification points, so as to eliminate duplication of effort and inefficient loading of equipment, and to realize reduction in expenses.

Go up on any of the big buildings here in lower Manhattan and look out of the window any day in the week—and it is not an occasional thing, it is something that you see every hour of the day—you will see a great lighter, capable of carrying probably a thousand tons, loaded with about a hundred tons, making for an Eastern District terminal in Brooklyn.

Except that the operation is on water, it is identical with the trucking operation on land. A seven-and-a-half ton Mack truck that will carry seven and a half tons, which starts from here to Fourteenth Street with only a ton and a half on it, means an absolutely wasteful and useless operation; and the man who tries to conduct it for any length of time will find himself in bankruptcy.

The railroads have been able to stand up under these water-transfer operations at the port of New York only by taking the cost of it out of the line haul, and it left so little profit on the short haul that during the war the railroads themselves encouraged the organizing of trucking companies to work between here and points within fifty and sixty miles.

Another fundamental point about the plan of the Port Authority is that it is built and figured out to save as much of the existing equipment as possible, not to destroy any existing property. We shall see how easily that can be done.

Take the west side of the port; along the water front there is a line running from Fort Lee on the north down into Bayonne. That line of railroad is practically all built and is in existence now and is used by all of the different trunk lines that terminate between these points. With the construction of some small connecting links every one of the

nine trunk lines entering Jersey from the West and South will have ready access to the water front without breaking bulk. That means that ships that dock in Hoboken or in Jersey City can have the rail end right at the keel. The secret of cheap handling of freight to ocean-going steamers is to be able to bring the freight car up alongside of the steamer. That saves handling and saves the wasteful trucking that we have to go through now.

It is estimated that some twenty million tons of freight a year is floated between New Jersey and Brooklyn.

I think that the lay mind, even though not much informed on the subject, can readily see what a difference there must be in being able to keep that freight constantly moving through a tunnel under the river, without its breaking bulk and without the necessity for car-floating. See what the difference will be: It has been estimated that at a cost of \$45,000,000 to build that tunnel, the freight going through it at about half of what it now costs to car-float it would pay the interest on the bonds and amortize them in less than twenty-five years.

It is proposed to bring without breaking bulk the standard freight cars of all twelve of the trunk lines entering the port right to the shores of Jamaica Bay, to meet the proposed improvement now in contemplation by the municipality and by the United States Government. The United States Government has agreed to dig the channels into Jamaica Bay, so that ocean-going ships may go right into Jamaica Bay to unload cargo, when they come there; and the city has the docks built. The plan contains the means and the provision for handling the standard freight cars of all freight lines, tapping the very docks themselves, and meeting the very ships that come into the docks.

Along the Brooklyn water front you see also a line connected up with the line under the bay from Jersey. The

largest part of that is now built and is the property of the New York Dock Company. There are some nine or eleven miles of that railroad built.

This again brings the freight cars of the twelve trunk lines right to the shore line of Brooklyn without breaking bulk and without car-floating.

Over the New York Connecting Railway the line reaches into the Bronx and the lines and spurs run out to Throggs Neck and connect up with the classification yards of the New Haven Railroad. The purpose of this is to provide for future growth and future development. The water front that is there picked, it is agreed by everybody, can never be used for residential or for living purposes, and must ultimately be devoted to commerce and to manufacture. Just think of what that means to our realty valuations down here. Just think what an intimate bearing that has upon the future growth of the commercial interests of the city. If a man walks into your office today and wants to establish a large manufacturing plant in New York and wants direct rail connection, you can not give it to him. It is impossible. The National Biscuit Company, Swift & Co., Cudahy, and the big packing houses can establish a connection with one line, with one railroad, by building along the west side, that can be fed from the West by the New York Central Railroad. But here we propose under this plan to say to the man who contemplates manufacturing in our city, "Go up to the Bronx and take that water front between the New York Connecting Railway and Throggs Neck, and we will feed you at your plants with the twelve railroads that run into New York."

That takes care of every Borough of the Greater City except Staten Island and Manhattan. Because of the controversy between the Port Authority and the Board of Estimate and Apportionment there is a general misunderstand-



ing in the whole situation as to the taking care of Staten Island. This misunderstanding grew out of a peculiar thing that the Legislature did. I do not speak of it in criticism, because I have no notion of what the Legislature had in its mind. I simply state it in order to show how the complication arose.

In 1921, in less than two weeks after the Legislature directed the Port Authority to study this whole question, it passed a bill directing the Board of Estimate and Apportionment to build a freight and passenger tunnel from South Brooklyn under the Narrows to Richmond. The people at Staten Island desired to have the Port Authority include that in the plan. There is only one reason why we did not do it—it is not economically sound.

You cannot take these fifty-three or fifty-four million tons of freight from Jersey and bring them down to Staten Island before you bring them to Brooklyn. That would be a senseless operation.

The Greenville tunnel is the most direct route and the cheapest of operation after it is built; but Staten Island has not been neglected, because if you pass back west of Newark Bay you will find a line running down to the present tracks of the Baltimore & Ohio Railroad; also it crosses the Arthur Kill, and continues along the present railroad tracks until it taps the twelve new piers that are being built by the city.

Thus, by the use of the middle line and the track back of Newark Bay, all twelve of the great trunk lines reach Richmond. How does the New Haven Railroad reach it today? The New Haven Railroad has its freight terminal in Mott Haven. Every pound of freight has to be put on to car floats and they have to be floated down the East River. With an adverse tide, it is a matter of record that it has taken a car-float nearly three hours to pass Blackwells Island. It has to

be car-floated down here and across the bay over into Staten Island, unless it is lightered—either car-floated or lightered; so that we propose by this not only to give Richmond ready access to the nine trunk lines ending in Jersey, but the New York Central, the New York, New Haven and Hartford, and the Long Island, the other three trunk lines as well. By the use of the Greenville tunnel, New Jersey freight finds its way back of Newark Bay and goes over the Baltimore and Ohio tracks right to the new docks in Staten Island, so that Staten Island is not out of the plan.

The real hard problem and the one that presented the greatest difficulty in its solution is Manhattan Island. The reason why it was difficult to solve the Manhattan Island problem is that everybody, engineers, railroad men, and terminal experts, all agreed that you can not bring standard freight cars on to this island. There is no room for them. You can not make a freight yard out of the west side of Manhattan Island. The land is too costly. For twenty years, practically, the State has been endeavoring to remove from the streets the tracks of the New York Central, and when that proposal was made to the president of the New York Central, what did he say? He said: "No, you cannot take the tracks off the west side of New York; you have got to put more down." And why? Because the Grand Central Terminal has grown too small for the business of the railroad.

Twenty years ago it was planned, and in one generation it is too small. If Westchester continues to grow in the next ten years as it has in the ten past, the Grand Central depot will only be adequate to take care of the people who come and go out of there in the day. You can not bring the through trains into Forty-second Street and bring the commuters into it at the same time. So that in a very short time we are going to have another problem for the New York

Central. Certainly no one will suggest that they can move that terminal over to the west, or make it any larger, with the present cost of property in what has grown to be the very hub and center of the Greater City—Forty-second Street and Madison and Fourth Avenues.

If the cars, the freight cars, of a single line like the New York Central are unable to be accommodated in the terminal facilities already on Manhattan Island at Eleventh Avenue, how can anybody talk of bringing the other nine lines over on to this island? Where would you put the freight cars? What would you do with them? Have always in mind that infinitely more stuff comes in than goes out; and there would be the absolute loss of operation in moving empty equipment back to Jersey, after it had been unloaded on Manhattan Island.

The treatment of Manhattan Island from the standpoint of our freight has got to be exactly the treatment that we gave from the standpoint of the transportation of our people—subways. You have got to do it underground. You can not put any more on the face of this island south of Fourteenth Street and be able to do any business on it. It cannot be done. In fact, our students of traffic conditions are now figuring how to remove what is already here.

So, therefore, the Manhattan freight problem must be solved by a subway, and, accordingly, we have recommended what is known as the Automatic Electric System. A brief explanation of it is this: The construction of a classification yard back of West Hoboken, and there freight for Manhattan to be put on trailers and put into automatic electric trains, to move across at a point around Fifty-ninth Street under the river, coming down the west side about a block back from the water front, stopping at eight different warehouses to be constructed up over the tracks, returning to Jersey at a point approximately about Cortlandt Street, and

to work automatically. To save the additional handling the trailers can be drawn from the automatic trains, passed across the platform, and put upon the tail board of a truck to be trucked away. If to be stored, the car and all can be taken upstairs in the warehouse, the trailer taken off, and the stuff remain on the trailer until it is ready to go out again.

Personally, I really believe that the automatic railway is a good way off, but it is the only solution, and of all the plans submitted it is the only one that is practical; it is the only one that can be operated cheaply; it is the only one that takes us away from car-floating; and it is the only one that releases the water front for its natural uses. But New York will be greatly relieved in her traffic congestion by the construction of the belt lines in the other boroughs. About that there can be no doubt, because if the standard freight car can go right to the Brooklyn water front without either floating or trucking, it makes the operation on Manhattan Island so much easier. Meanwhile the Port Authority is not without temporary plans for the relief of congestion on Manhattan Island, until such time as the Automatic Electric can be installed.

You see on the far west of the plan a long line beginning at Piermont on the Hudson and ending down at New Brunswick. That is proposed merely as part of a plan looking into the far future for ultimate development. When the business of the port warrants it, that will be the proper way to handle the freight coming in over the nine trunk lines. No part of it that belongs east of the Hudson River should be allowed to come anywhere near the Jersey shore front, because it only adds to the congestion, and business and manufactures are growing there at such a rate that in the next twenty or thirty years they will be unable to meet the conditions, unless the through freight is classified and stopped at a greater distance outside of the present classification yards.



What is the one great benefit that few people think of that grows from a comprehensive plan like this? It is this: That when it is adopted by both States, pursuant to treaty, and ratified by the Legislatures, it is a guide to all of the 105 municipalities within the Port District that propose any port improvements of any kind. And, let me say that I cannot think of anything that is as important to this port as to have some plan. See what has happened in the past when we have not had it. Every administration has its own notions about it. One administration develops a Chelsea District. Another one comes in and says, Jamaica Bay; another one comes along and says Staten Island. Pretty nearly all of these developments are the ultimate result of local sentiment, which is worked up in favor of some particular locality.

How is the Port Authority going to do all this? That which is new construction must be financed under the treaty and under the legislation accompanying it by the sale of bonds, and the property itself must be economically profitable. It must be able to meet the interest charges and the amortization payments to retire the bonds. That which is in existence can be unified by the Port Authority, using the Interstate Commerce Commission as the instrumentality for compelling the unification, because, under the Interstate Commerce Commission Act, that commission not only has the power to fix the rates on the line haul, but it also has power to determine what the terminal operations are to be. In fact, a member of the commission did say that had there not been created some agency for the development of this port the Interstate Commerce Commission would undoubtedly have reached its hand into the port of New York and compelled these railroads to do something about it.

That briefly is the explanation of the plan. There remains now to carry it into effect. There is no doubt in my mind that there are obstacles to that and they can be over-

come only when the people of this community make their minds up that they want this thing; and they cannot treat it the way they treated those public questions that died, as we said early in the day, when they were nine days old. They have got to keep their minds at it, and behind the Port Authority. If the plan is understandable and workable, it costs the people themselves of the communities nothing. It improves their water front. It hooks up the boroughs. It provides for future growth and future industrial development. They have got to keep fighting for it or there will be bound to arise some place, some force or another, that will stand in its way.

It is progressive. It meets the situation. It has the best thought that could be put upon it. The plan itself is the survival of all those that were offered, after they were all criticized, and it comes after deliberation with commercial bodies, with railroad engineers, and with experts, with all the figures that entered into it, agreed to by all sides before any plan was proposed to overcome the evil that grows out of the present conditions.

We need it. We need it here to reduce the cost of living. Committees and agencies of Government have been attacking the cost of living by looking up a fellow here and there that got twelve dollars for a pair of shoes. But nobody has ever thought of getting right down, so far as we are concerned, to the root of the thing—the cost of moving produce and the cost of doing business.

The whole country needs it. The port of New York must be developed if she is to stand up. We need it for our business people, our real estate owners, and our citizens generally, if they are to have or maintain the supremacy that has been ours for over one hundred years.

We need it if we are going to meet any healthy and successful competition from the other ports on the Atlantic

Coast that have the advantage over us. For they have not got this antiquated method of doing business and this natural barrier and division, the Hudson River, between the east and the west side of what the Government itself has said to be historically and geographically one port.

We need it immediately if we are going to get for all of our people the blessings and the benefits that God Himself intended that we were to get when He gave us the greatest natural harbor in the known world.

## ONE HUNDRED YEARS OF THE ERIE CANAL

Pursuant to law a commission was appointed by the Governor and the Legislature to conduct a celebration signalizing the centennial of the completion and opening to commerce of the Erie Canal. The chairman of the commission was George Clinton, grandson of Governor George Clinton, with whom the vision of the Erie Canal, its building and its opening, are associated.

Among the features of the celebration were banquets held under the auspices of citizens' committees in New York City and Buffalo.

Governor Smith delivered this address at the public meeting and banquet of the New York Citizens' Committee on the evening of Thursday, October 7, 1926. The toastmaster was James J. Walker, the mayor of New York.

I think it would not be amiss for me to give my testimony to one of the salient points that will undoubtedly be raised in connection with the canal, and that is, the benefit the canal was, and is, to the State of New York, as a factor in promoting its commerce.

It goes without saying that the great port of New York attained its position as a port of entry on the seaboard of the Atlantic Ocean because of the construction of the Erie Canal. And in looking over the State, we find that all the great sections of population are along the line of the canal. There are 10,500,000 people who reside in New York, and 7,500,000 of that number reside along the canal from New York to the city of Buffalo, giving to all the rest of the State a population of only 3,000,000. Of these, 7,500,000 live in five cities, although we have in the State thirty-five



cities and a number of large villages whose population is sufficient to warrant them in applying to the Legislature for charters as cities. There was a time when there was a reason why they didn't do it. They were evading the excise tax. But why they don't do it now, nobody knows.

In 1925 I sent a message to the Legislature in which I laid before both houses in Albany the story of the canal for the purpose of bringing to the attention of the people of the State of New York, as I believe it should be brought, the fact that the canal is not being used to the degree that we had hoped it would be used after the enormous amount of money we put into its construction.

In our political system, the time will never come when we shall be able entirely to escape the feather-brained individual who has something to say about everything that a public man does. Some fellow rushed into print quickly and said, "Al Smith wants to scrap the canal! Al Smith wants to turn over the commerce to the New York Central Railroad!" I suppose it was the same fellow who thought the Al Smith who was the Governor was the same Al Smith who is president of the New York Central Railroad.

Well, of course, it doesn't need very much of a stretch of the imagination to see how absurd that is, because nobody can scrap this canal except the people of New York. This canal is provided for in the Constitution. It is protected. It is safe, as safe in its tenure of office as the Governor!

However, the committee was not amiss, because, after all, we are running a great business corporation. The operation of the canal is a business, just as much as the operation of the Central Railroad or any other means of transportation, and it has to be advertised. People have to know of its possibilities.

It isn't sufficient to maintain in Albany a bureau of information and wait for somebody to come in and ask about

it. You must go out and talk about the canal, invite the people in, provide an opportunity for them to come and consult with the proper authorities as to the advantages of the canal for shipping.

During the war operation on the canal was at a low ebb, so that in 1919 only 1,238,000 tons of freight passed through the canal during the operating season. In 1925, however, the tonnage increased to 2,344,000 tons, and in 1926, although the operating season was delayed by an ice block at Buffalo three weeks beyond the time when the canal itself was physically prepared for operation, the tonnage will exceed anything that has occurred upon the canal since it was enlarged in accordance with the constitutional referendum of 1901!

It therefore remains for the State to handle this great waterway from a strictly business standpoint. It must be advertised; its advantages must be told in the language of business to men that require transportation in the State across from Buffalo and points on the canal to tidewater. So far as the State is able to do that, it is doing it, but unless the efforts of the State are supplemented by some private endeavor, by private effort on the part of chambers of commerce and boards of trade and business men's organizations, the canal will never attain what its greatest friends expect it to accomplish. So there is a large field left for private endeavor in the State to convince our shippers that the canal is the proper way to handle their freight.

There is something else the State must do, and that is, maintain the canal the way a business institution is maintained. I wish this dinner were in April or February when there is no campaign talk. I am a little bit modest; I don't like to talk about this. But inasmuch as it is a fact, this is the only place to disclose it. Everybody in this room who knows anything about the canal knows that for a number

of years it was politically run in that it afforded some very comfortable berths for superintendents and assistant superintendents that knew as much about its operation as I do myself—and that is nothing.

When we speak about our great big transportation organizations and look at the president, we say, "Well, he is the president of the railroad. He used to be a yardmaster, and he was promoted to track foreman, and then he became traffic manager, and finally he got into the main office, and now he is president."

What do you think would happen to the New York Central Railroad if all the division superintendents were changed every two years? Still, that is the way we attempted to operate the canal. Every time there was a change in the political government of the State, a whole new system of superintendents and operation came in. Obviously, that must lead not to management, but mismanagement, so that in 1923, by a consolidation of the Department of Highways with the Department of Public Works, the canal was finally brought under the direct supervision of five district engineers who hold their office year in and year out and are covered by the protective provisions of the civil service law.

Nobody ever thought of the Department of Highways when there was a change in administration—they never thought of talking about the engineer in the third division. Nobody knew him. He was there for years, and he was continued there while he was able to perform his duty. As a result, today, instead of all the political assistants and deputies, the canal is under the management of the same five highway engineers in whose district that particular portion of the canal happens to lie.

We were criticized for this when we started it, but I think we have established beyond any possible question of doubt

that a continuity of efficient and intelligent administration is necessary for the successful operation of the canal as a great transportation enterprise.

I have long cherished the hope that more and better use could be made of the terminals. In 1911 we submitted to the people of the State a proposal to issue bonds for \$19,800,000.00 for terminals for the canal. These terminals are not being used. Nobody can say that they could not be put to use, but the fact remains, nevertheless, that they are not being used. I entertained for a long while a hope that the Council of Farms and Markets, charged with devising ways and means of transporting farm products, might be able to sit down with the canal-operating authorities and find out if there wasn't a way that some of these terminals could be used for public markets, so that the produce of the farm might find a ready place for sale in the great centers of population along the line of the canal. But under our unique and peculiar organization of this so-called Council of Farms and Markets, outside of a great volume of law and a wonderful grant of power, we don't seem to be able to get any real action.

Now, I feel that I have made about as large a contribution as I am able to make to the festivities of the evening, and I know of nothing else that remains except for me to express, as the Governor, my very sincere thanks to the Chairman of the Canal Commission and to his able assistants for the work they have done, and for the interest they have taken in the celebration. And I take this public occasion also to thank Mr. Clinton in this presence for his unfailing interest at all times in everything that has to do with the good of this canal system. He has what amounts to a personal interest in it, and if we could only interest enough of our business men and our leaders of thought in the business world throughout the State to devote some part of their time, not nearly as



much as he does, but some part of their time, to the promotion of the welfare of the canal, it would really and actually be the great inland waterway that we predicted. I believe it will be that in time, but that day could be hastened.

I am very grateful to the committee; I congratulate them on the splendor of this affair tonight, and I extend a hearty greeting to all of their guests.



PART III  
THE SOCIAL ASPECTS OF GOVERNMENT





## THE FIRST WIDOWS' PENSION ACT

This speech was delivered by Alfred E. Smith as minority leader of the Assembly on March 24, 1915, on the occasion of the third reading of the first Widows' Pension Act, passed by the New York Legislature.

Mr. Speaker, in the recent campaign and in the campaign previous there was contained in the platforms of the two great parties a plank which pledged the parties to the conservation of our natural resources. As I see this bill and as I view the policy on the part of the State in reference to such matters, I am of the opinion that this bill should read, "An act to conserve the family life of the State."

What happens when death takes from the family the provider? The widowed mother goes to the police court or to the charity organization and her children are committed to an institution, and from the moment the judge signs the commitment the people of the city of New York are bound to their support. Let us see what effect that has upon the State itself. The mother stands in the police court. She witnesses the separation of herself and her children. They are torn away from her and given over to the custody of an institution, and nothing is left for her to do but to go out into the world and make her own living. What must be her feelings? What must be her idea of the State's policy when she sees these children separated from her by due process of law, particularly when she must remember that for every one of them she went down into the valley of death that a new pair of eyes might look out upon the world? What can be the feelings in the hearts of the children themselves sep-

arated from their mother by what they must learn in after years was due process of law, when they must in after years learn to know what was the State's policy with respect to their unfortunate condition?

That is the old system. That is the dark day we are walking away from. That is the period which, by this policy, we are attempting to forget.

What new policy does this bill inaugurate? What new system does this bill inaugurate? The State of New York, under the provisions of this act, reaches out its strong arm to that widow and her children and says to them, "We recognize in you a resource to the State and we propose to take care of you, not as a matter of charity, but as a matter of government and public duty." What a different feeling that must put into the hearts of the mother and the children! What better citizens that policy must make! Why? Because it instills into those young hearts a love, a reverence, and a devotion for the great State of New York and its sovereign power.

We are pledged to conserve the natural resources of the State. Millions of dollars of the taxpayers' money, untold and uncounted millions have been poured into that channel. We have been in a great hurry to legislate for the interests. We have been in a great hurry to conserve that which means to the State dollars and cents. We have been slow to legislate along the direction that means thanksgiving to the poorest man recorded in history—to Him who was born in the stable at Bethlehem.

We have been especially blessed by divine Providence in this State. He has seen fit to make it the great financial and the great commercial center of the western world. I believe it will in time be demonstrated that He intends to make it the market place of all the world; and by this legislation, by the adoption of this policy, we are sending up to Him a

prayer of thanksgiving for the innumerable blessings that He has showered upon us, particularly in the light of the words of the Saviour Himself, who said: "Suffer little children to come unto me, and forbid them not, for of such is the kingdom of heaven."

## TWO SPEECHES AT THE CONSTITUTIONAL CONVENTION OF 1915

### *On the Barnes Amendment Prohibiting the Legisla- ture from Granting Any Privileges and Immunities to Any Class*

In the Constitutional Convention of 1915 Smith stood with those who desired to liberalize the Constitution so as to make the government more of an instrument of social legislation and against the powerful group led by William Barnes, who regarded labor laws as a privilege and immunity to a particular class in society and therefore opposed to the fundamental principles of a democracy.

We are getting far away from our ideas of government. Apparently preaching for a return to the American ideal, we are ourselves, by the force of our arguments, drifting in the other direction. I may be entirely wrong. The gentlemen around this chamber would lead us to believe that law in a democracy is the expression of some divine or eternal right. I am unable to see it that way. My idea of law and democracy is the expression of what is best, what fits the present-day needs of society, what goes the farthest to do the greatest good for the greatest number. And, after all, is not that the reason for the existence of the great political parties? Has it not been conceded time and time again that the only question at issue between them is how to reach it in the safest, the surest, and the quickest way?

I am afraid that a lot of men have an entirely wrong idea about workmen's compensation. Nobody has ever been able to satisfy me that that is a privilege or an immunity. I am unable to figure how that comes into this discussion at all.



My idea of workmen's compensation—and I may say it is the idea underlying the thoughts of the men who have suggested such a thing—is that workmen's compensation is an indirect tax upon the industry of the State for the purpose of relieving the shoulders of all the people from carrying the burden of the men injured or destroyed in the upbuilding of an industry. The only part of it that could be said to be a privilege is that part of it which makes all the people of the State pay the expenses of the commission. In order to cite to this convention that the men who drew it had that in mind, by the very provision of the act itself, it is provided that after the first day of December, in the year 1917, the cost of maintaining the commission is to be assessed back upon the State fund and the insurance companies as a further tax upon them for adjusting their business. Now where does that come under this proposal?

The labor laws—why, nobody believes that the labor laws are privileges. As I understand a privilege, it is a matter of favor. You have to come to look for it. All the laws that are on the statute books that relate to the hours of labor of women were adopted after the doctrine was set down in the United States Supreme Court. Here is what they say, speaking about night work and the length of hours per week:

That woman's physical structure and the performance of maternal functions place her at a disadvantage in the struggle for sustenance is obvious. This is especially true when the burdens of motherhood are upon her. Even when they are not, by abundant testimony of the medical fraternity, continuance for a long time on her feet at work, and repeating this from day to day, tends to injurious effects upon the body; and as healthy mothers are essential to progress in strengthening physical well-being, the woman becomes an object of public interest and care in order to preserve the strength and vigor of the race.

That is equally true where labor laws are enacted for the preservation of the health of the men of the State because, after all, what is the State? Green fields and rivers and lakes and mountains and cities? Why, not at all. It is the people, all the people of the State, and anything that tends to make the members of the State strong and vigorous in turn helps to make the State so, and every one of these enactments has been for the general good and could in no way be described as a privilege.

Now let us get down to business and stop all this constitutional talk, and the talk about the representatives of the people and all of that, when we do not really believe in it. Let us get right down to hardpan. The question we have got to deal with here tonight is this: Is this a wise thing which the convention may stamp with its approval? No matter what it may prevent, no matter what it may promote, there is throughout the length and breadth of this State a general belief that the men who proposed this thing have in mind the setting of the fundamental law against any extension of workmen's compensation. The people have in mind that it is proposed to array the Constitution itself against the decisions of the Supreme Court as to what is a matter of duty on the part of the State. They have in mind that it is proposed to erect a wall around these representatives of the people to prevent the wholesome, beneficial change in the State policy that came from the enactment of the child welfare bill. Whatever may be the final result of it, we are tonight by our votes to decide whether or not we are to put our stamp of approval upon this proposition. If enacted, so far as the fundamental law is concerned, having in mind that it is binding on the direct representatives of the people, having in mind that wealth because of its own strength and its own power can protect itself and that the great curse in poverty lies in the utter helplessness that goes with it—having

these things in mind we must ask is it wise, is it prudent for this Convention to do what it can do to reduce the basic law to the level of the cave-man's law, the law of the sharpest tooth, the angriest brow, and the greediest maw? I respectfully but firmly suggest that we should not favorably report this because I think it is a great mistake.

*In Support of a Minimum Living Wage for Women  
and Children in Industry*

This is intended to give to the Legislature the power, either by its own action or through any properly constituted agency, to prescribe a living wage for women and children employees. This comes to this body as a recommendation from the State Factory Investigating Commission. The latter was continued in 1913, after being in active operation for two years, for the express purpose of investigating the question of salaries and wages paid to women and children employees in mercantile establishments and in industrial occupations.

The exact wording of the report subscribed to by the majority of that commission, and, as I understand it, by the minority representatives as well, removing it entirely from the question of politics, was, briefly, as follows:

After careful deliberation and study of the results of its investigation and the testimony taken, the commission has come to the conclusion that the State is justified in protecting the underpaid women workers and minors in the interests of the State and society. It finds that there are thousands of women and minors employed in the industries throughout the State of New York who are receiving too low a wage to adequately maintain themselves in health and decent comfort. The commission believes that this unjustly affects the lives and health of these underpaid workers and believes that it is opposed to the best interests and the welfare of the people of the State.

The evidence taken was something like this: let me read you one or two paragraphs from the evidence.

Subject: "Living on Six Dollars a Week," by Esther Packard, one of the employees of the commission. "How do they manage to do it? In what mysterious ways do girls stretch a less than a living wage into a living one?" is the question which the public most often asks when it hears of girls living on five, six and seven dollars a week.

"Miss C. W."—this is an actual conversation had with a working girl in a department store. The names are not mentioned. The initials are given and all the facts, the right names, the addresses, all the circumstances and the name of the department store are in the possession of the Factory Investigation Commission.—"Miss C. W., a department store clerk, answers quickly, 'When I have to pay for a pair of shoes or something like that, I don't buy meat for weeks at a time.' 'You see yourself the only thing that is left me to economize on is food,' says another department store clerk; 'I never eat any breakfast at all. By experience I found that was the easiest meal to do without.' Annie B. reasons thus: 'When I don't spend any money on pleasure and only what I absolutely need on clothes, how else can I economize except on food? What else is there to do?'"

The State, not in the interest of the worker, not in the interest of the individual or a class of individuals, but in the interest of the State itself, has undertaken to regulate this question of woman and child labor. If it is essential to fix the number of hours that they are to work and fix the time that they are to work, prevent them from working in the night time, is it not only natural that the State should have power to say that they shall not be worked at a salary less than sufficient to keep them in health and in decent comfort?

Now, one of the arguments against the minimum wage



that can be dissipated into thin air by a wave of the hand is the argument that it may some time be made to extend to men.

Everybody around this chamber knows that by labor unions and by labor organizations men have it in their power, and they do it today, to exact a certain minimum wage.

Women and children have no organization. No woman goes to work or no young girl goes to work with the intention of forever working in the department store or a shirt factory or in a shirtwaist manufactory. She goes there for a start in life. Her ultimate desire is the desire of all women, that she have her own home and her own family. Consequently women never organize. Consequently they are without the power to present their claims, and it is proposed by this Legislature that the State itself help them to present the claim.

A great many people say a minimum wage interferes with individual bargaining and it interferes with the rights of the people. Not at all. Not at all. This is really an inhibition rather than a minimum wage. This wage board says, "You may make any bargain you will with your employer; you may make any arrangement as to salary which you please among your classes, but in the interest of the State and of society, you cannot pay less than this amount to a girl of this age in this part of the State."

I was very deeply impressed by the testimony which you will find was given by the president of the National Cloak and Suit Company, the largest employer of women and children in the State, and the very thing, the very principle that it was sought to write into this Constitution, that great company has had in operation for a long time. Not only have they conceded that there was a minimum below which

they should not pay anybody, but they have felt that there rested on them some duty to continue the education of every young girl who was obliged to go to work for them.

What is the effect of it upon the employer? The effect is that he gets better work. Professor Brandeis, before the committee, quoted a great English authority that a railroad costs the same per mile to complete it whether you pay a man two cents a day or two dollars a day, and it is predicated on the reasonable and unquestionable theory that you get what you pay for; no more and no less.

There is another side to this, too, which deserves something of our consideration. We have spoken of what must be the natural effect upon health. The girl who is insufficiently paid and improperly clothed will in time become a charge upon the State. About that there can be no question, and if she is to be the mother of the future citizens, look straight and deep down into your heart for a moment, and see what we are looking forward to if the State refuses to bring them up in health and decent comfort.

There is another side worthy of consideration. I will quote from a part of the testimony of one of the investigators. There is the moral side. It is an awful weight! It is an awful temptation!

One of the investigators went out among the employees of the mercantile establishments and in the course of her testimony she said: "I do not think the problem ever presents itself to a girl, 'Shall I sell myself in order to make more than six dollars a week?' But the absence of amusement, the barrenness and the ugliness of life, the whole thing combined with unemployment, does tend powerfully in that direction. Low wages put too severe strain on the moral strength of the individual."

We should not hesitate to clothe our Legislature with this power. Gentlemen, will any man around this circle think for

a moment that this is going to be abused, or even unwisely used? Remember what happens, takes place after very careful consideration, very careful deliberation. Just as surely as we are to leave this hall tonight, so surely is this thing coming in this State, and before you leave here, look into your conscience and consult your conscience and see if you are not passing by an opportunity to help it; see if you can excuse yourself at some future time, when its necessity may be much more apparent, upon the ground that you are afraid to trust this great question to the elected representatives of the people in the Senate and Assembly.

## ADDRESS BEFORE THE NEW YORK STATE FEDERATION OF LABOR

This address before the convention of the New York State Federation of Labor in Syracuse, 1919, is typical of many made to labor meetings and conventions.

I view the matter of labor legislation from an entirely different attitude from the one in which I have seen it regarded during my time in Albany, not only as Governor for the last seven months, but as a member of the Constitutional Convention and as a member of the Assembly for twelve years. I view labor legislation from the standpoint of the benefit that I see it bring to the State itself.

During my years in Albany I have had members of the reactionary forces from time to time say to me: "Haven't you done enough this year for labor? Why not let this go over until next year?"

My attitude toward that line of questioning and that particular attitude has been that nothing has been done for labor itself; what has been done has been done as a matter of State policy for the benefit of the State.

We spend in a year countless hundreds of thousands, yes, and millions of dollars for purposes of conservation. We conserve the animal life of the State; we conserve the forests; we conserve the State property wherever it may be. But we have given little thought to the conservation of the State's greatest asset, and that is the health and the strength of its men and women.

We ought to have gained much from the experience of



the recent great world conflict. The Selective Draft Act, something new to this country, something not known or heard of in this generation or ever before—the Selective Draft Act, for example, brought out the fact that one-third of the men between the ages of twenty-one and thirty-one who were called to the colors by the country were physically unfit to fight. I cannot believe that as a State or as a nation, we can afford to allow a lesson of that kind to go by unnoticed and simply enter into a declaration of peace and go back to our old habits and customs and let the world move along as it did before the conflict. I cannot believe that our industry, our American people, will be so blind to their own advantages as to neglect the teachings that come from a lesson of that kind. And the lesson shows us the need of legislation for conserving the health of our people.

In ten or fifteen years there has been a very decided change in public opinion with regard to labor legislation. There can be no doubt about that. We have abundant reason today to say that we are making substantial progress. When I entered the Assembly first in 1904, some of the labor legislation that afterwards came from the Factory Investigating Commission, of which your vice-chairman, Miss Dreier, was a member, could not have passed either house in Albany, could not have received any real support. It was looked upon as revolutionary. I think the Court of Appeals decision in the night-work case for women is the clearest indication of the change of attitude, not only on the part of the people themselves, but on the part of the highest judicial tribunal in the State.

I speak, of course, about court decisions absolutely as a layman. I am not a lawyer, but nevertheless I have ideas of my own, and my idea is that the Due Process of Law clause in the Constitution was never intended to prevent the State from enacting legislation to safeguard the health and welfare of the people of the State. The "liberty" spoken of

in the Fourteenth Amendment to the Federal Constitution, which afterwards was incorporated in the Constitution of this State, meant the liberty of the person. It was put into the Constitution immediately following the Civil War as a guarantee to the people that blood was shed then for a real constitutional right, and that liberty meant the liberty of the person. It meant that no person could be detained in any place against his will, or without due and orderly process of law.

But the courts afterward construed that word "liberty" to mean liberty of contract as well as liberty of person, the liberty not only to move freely in your person, but to live your own life in your own way. And the Court of Appeals said, in its first decision on the night-work case for women, that the Legislature could not enact any law that would in any way abridge a woman's liberty to contract to work whenever she pleased whether it be in the night time, or in the day time, Sunday, or any other time. But the same court afterwards sustained the very same law upon evidence before the court adduced by a committee that was itself the creation of the Legislature. This evidence held that this law was enacted to safeguard the health and the welfare of the women of the State and to protect the health of the future citizens of the State, and that therefore it was a proper and lawful exercise of the police power of the State in the interest of the public welfare.

There were a number of important measures introduced and passed in the Senate during the last session of the Legislature.

The eight-hour law needs no discussion. It passed the Senate and was not reported from the Committee on Rules of the Assembly.

The amendments to the Workmen's Compensation Act, extending the benefits of that act to men suffering because of

occupational diseases, also passed the Senate, but it was not reported from the committee in the Assembly.

As for the extension of the Workmen's Compensation Act, there is no doubt in my mind that the framers of the original constitutional amendment permitting the enactment of workmen's compensation insurance in this State believed that it could be applied to occupational diseases. The problem hinges on that word "injury." Now an occupation can injure a man in ways other than by accident. A man who suffers from lead poisoning because of his occupation is injured by that occupation just as much as if he were accidentally hit with something in the performance of his duty. This was discussed at very great length in the Constitutional Convention, and my recollection of it is that the ablest legal minds in the Convention held to the theory that the Legislature could enact legislation extending Workmen's Compensation Act to take care of occupational diseases.

It proves nothing that the attempt to write it into the Constitution was defeated. There were attempts made to write numerous things into the Constitution that the body itself agreed could be done by the Legislature. It was offered simply to safeguard the constitutional provision and to take out of it any possible element of doubt that may exist regarding the ability or the power of the Legislature to extend any of this labor legislation. In fact, there was introduced in the Constitutional Convention a provision which specifically said that that section of the Constitution dealing with the due process of law had no application to legislation that was enacted to protect the health or welfare of workers. This opinion was laid before the Committee on Labor and Industry of the Constitutional Convention as a resolution and was reported from that body, although my recollection is that it was not adopted by the convention itself.

The same thing applies to the minimum wage law for

women and children. While the attempt was made in the Constitution to write into that document in so many words the delegation of power to the Legislature to enact it, the belief still exists that it can be enacted and should be enacted. It also is one of the bills that passed the Senate and was lost in committee in the Assembly. It gives us no new principle in the government of the State. The municipalities themselves are fixing minimum wages for their own employees. A strange thing about it, a strange thing about all the labor legislation, is that there was practically no debate upon it. The opposition, if any existed, was never made known. You know you can't conduct a one-handed debate. In order to have a debate there must be two sides presented. I never heard anybody make an argument against the creation of wage boards.

I remember in the Constitutional Convention one of the members talking against it read about something that happened in England in 1320, when there was a movement on the part of Parliament assisted by the Crown to fix the price of provisions or supplies of some kind, and that was urged as an argument against the creation of wage boards to fix minimum wage rates for women and children.

There is one other subject that I want to speak about, and that is the operation of the State Insurance Fund and the State Industrial Commission. When I came into office I had in mind that during the campaign I spoke very vigorously against the law that provided for direct settlements between the insurance companies and injured men and women. I fought it in 1915. I was in the minority, the steam roller crushed us down the Senate's aisle, and the law went into the statute books of this State. After an investigation of some of the awards made by agreement between the injured and the insurer we produced sufficient evidence to put through a bill abolishing the direct settlement at the last



session of the Legislature, something I didn't think was possible to do, but the evidence was so strong that they couldn't get away from it.

I want to say here today that I have absolute confidence in the State Industrial Commission. Nevertheless, I owe it to the commission—and in this the commission stands with me—I owe it to the working people of the State and I owe it to the business people of the State, to have the law such that industrial insurance must either cost less to the manufacturers of the State, or the injured man must get more. A comparison between the rates in this State and the rates in the State of Ohio shows that either our manufacturers are paying too much, or our injured men and women are getting too little. One of the two things must be the fact, and before we finish we will find out just what the real situation is and do what can be done to remedy it, either by administration, which the commission is now doing, or by legislation if the commission cannot remedy it by administration.

## BETTER TIMES FOR THE SICK AND DISABLED WARDS OF THE STATE

"Better Times for the Sick and the Disabled Wards of the State" is a plea for the bond issue of fifty million dollars to modernize and add to the capacity of the State hospitals for the insane. It is also an appeal for Governor Smith's general social welfare program. The address was delivered October 31, 1923, at the Hotel Astor, New York City, at a banquet held by *Better Times*, a magazine devoted to social causes.

I take it that we have gathered tonight to discuss the topic of better times—not for ourselves, because we are doing well; not for those who have plenty, but to speak about how we can do something for those less fortunate. I am going to divide my remarks into two parts: first, I am going to deal with better times for the State's dependents, because, after all, that is an obligation resting upon every one of us.

On Tuesday next there will be submitted to the voters at the polls a proposition to bond the State for fifty million dollars. The sole purpose of that proposition is to insure better times for those who are our wards, those for whom we have sacredly promised to care. Among the various amendments adopted in 1894, when we amended our Constitution, was one providing for the care by the State of the insane population. Prior to that, the care of the insane was entirely a county charge, and it was because the people of the State were dissatisfied with the way in which a great many counties were carrying on that charge that they took it upon themselves to make it a State obligation.

I have, personally, as Governor of the State, not only in my present term but during 1919 and 1920, made a careful study of how well we are carrying out that obligation as a State—and I am entirely dissatisfied with the way in which we are doing it. I say it without disparagement in the very slightest degree of the agencies selected by the State for the performance of that duty. I hold, and I have held, that our State Hospital Commission is doing everything that a State commission could possibly do. As a State we are responsible, and where a weakness has become apparent in that great hospital organization, it is our fault, and I am here tonight for the purpose of attempting to demonstrate to you that we are entirely to blame—that we have the remedy at hand—and that we should adopt it.

The care of the insane is a much greater problem than any of our citizens imagine. To begin with, the population in the insane asylums of the State is much larger than our citizens generally understand. On the first of August of this year we had 37,078 people in the asylums or hospitals for the insane. Because of reasons that I will afterwards describe to you, our facilities for caring for them are inadequate to the point where, on that same date, the overcrowding, also to be explained afterwards, amounts to 23.9 per cent. In other words, nearly a fourth of the people in the institutions for the care of the insane in this State today are not being cared for as the State should care for them—because overcrowding not only deprives the State of its opportunity to care for them in a proper way, but it promotes further disease.

In the records that have been submitted to me it has been certified by the doctors in charge of the hospitals that overcrowding is primarily responsible for the number of patients who after a short period have to be committed to the tuberculosis wards. That is particularly noticeable in

some of the old-time hospitals built a great many years ago, when the architects' ideas of light and ventilation were not on the same plane as they are today.

Among other pictures shown me of conditions in our State hospitals is one of a certain ward in Kings Park Hospital where the chairs were at the end of each bed. Able-bodied people who worked around the grounds or who worked around the institution had to sit on those chairs until it was time to go to bed because there was no other place to put them. During the war we tolerated such conditions because of shortage of help, nurses and attendants.

I was seated in a room in the Biltmore Hotel one day when a nurse from the United States Government service came to see me about conditions in the Brooklyn State Hospital. Her story seemed to me quite unlikely and I sent my counsel over to interview the doctor in charge of that particular hospital. He verified everything she said. She told me that a personal investigation disclosed to her that a number of women patients had vermin in their heads, that they had not been out of bed for days and weeks at a time because of a lack of attendants to take care of them.

At one hospital, patients were kept indoors during the summer months for three weeks at a time simply because there was nobody to take them out into the open air.

I submit for the consideration of anybody interested in better times, that the State of New York is not performing its duty to these unfortunate wards. If it is a proposition of simply locking them in some house until they die, that is all right. That's what we are doing. But we are not caring for them. We are not providing the facilities whereby they can be properly cared for.

Let us consider for a minute the fire hazard. In a short time I am going to give you the exact age of all these buildings which are being used for hospitals. You can imagine



the type of building that was built years before I was born! Not that I am so old—but it is a long while ago when speaking about the life of a building. What happened on Ward's Island in February when twenty-three people were burned to death in five minutes? The particular building in which that fire occurred was used as a home for immigrants as far back as 1865. At that time the city had not piped water from the Croton Reservoir to Ward's Island, and the water supply of that home came entirely from a driven well and was pumped into a tank on the top floor. In 1880 Croton water was introduced to Ward's Island, and a ceiling was built and the tank was concealed. And nobody connected with the hospital or with the State service knew anything about the presence of that tank. It was simply a cast iron tank nine feet high, which was concealed in the rafters of the ceiling on the top floor. When the woodwork burned away in the February fire, the tank fell down—and it happened to fall across the corridor, where it cut off the means of escape of twenty-five people! That fire was on the top floor. Nobody connected with the management of the hospital of today knew that tank was up there.

I had a talk with the State architect after that fire, and I hate to tell you what might have happened if the fire had started on the first floor. There would have been no end to it. The institution would have been wiped out and instead of twenty-five people accidentally cornered, probably the whole population of the building would have perished in half an hour.

The State architect is authority for the statement that ninety per cent of the buildings in the State institutions can be classed as fire hazards, and this danger in many of them is greatly increased by the fact that the buildings are terribly overcrowded. "When one considers," he says, "the helpless condition of many of the inmates, one is convinced that a

kind Providence who watches over them is alone responsible for the absence of a series of catastrophes and a heavy sacrifice of life." There can be no doubt about that. That is based upon a scientific survey of the State's institutions.

Within a week five buildings of the Binghamton State Hospital burned to the ground in less than fifteen minutes. Fortunately, they were the outlying buildings used for appliances and supplies rather than those which housed the inmates of the institution.

Leaving out of the question entirely the care of the present population and proper provision for the overcrowding, we must take into consideration the annual growth. The population of our hospitals for the insane grows approximately at the rate of a thousand a year. Let us consider the cost of taking care of a thousand new patients. A thousand beds added to an existing institution costs \$1,500,000. And bear in mind that the addition only takes care of a wing of the hospital. We have already paid for a sewage disposal plant. We have already paid for a power plant. We have already paid for kitchen services, and we have already taken care of a proper water supply. So that the addition of only a wing to take care of a thousand people costs \$1,500,000.

There comes a time when new wings and new additions to the hospitals are not practicable because it has been certified by our eminent students of the subject, that after a hospital reaches 3,000 population it becomes inefficient. That is as many people as can be cared for under a single organization.

I think that during our campaign for the passage of the bond issue we have probably stressed too much the hospital side of it. Bear in mind that under the provisions of this proposal there can be constructed buildings for all of the wards of the State except those in penal institutions.

What is the real story? Let us take the ages of some of

these institutions that we are using. Binghamton State Hospital was an inebriate asylum in 1860.

Brooklyn State Hospital was known as the Kings County Asylum for the Insane in 1855.

Buffalo State Hospital was built in 1880.

Central Islip, on Long Island, we referred to as our modern institution and built strictly along fairly modern lines. That was built in 1896. Gowanda State Hospital was built in 1898. Hudson River State Hospital at Poughkeepsie was built in 1871; Kings Park Hospital, in 1890; Manhattan State Hospital, on Ward's Island, in 1871.

The building that was burned in February of this year with the attendant loss of life was used for a home for immigrant girls as far back as 1855. Middletown State Hospital was built in 1874. Rochester State Hospital, known as the Monroe County Insane Asylum, was built as far back as 1864; St. Lawrence State Hospital, in 1890. Willard State Hospital was built in 1869.

Utica State Hospital is the grandfather of them all. It was a hospital for the insane as far back as 1843.

I am going to pass for a moment from the side of our duty on this question and deal with it from the standpoint of good business. I am going to deal with it just exactly the way the directors of a great corporation would deal with a question of this kind. I am going to treat it not from the standpoint of the Executive of the State but from the standpoint of the Chairman of the Board of Directors. This is what I would say to them if we were in session assembled, and we were dealing with this from the cold-blooded standpoint of what is good business, leaving out entirely the humanity, leaving entirely aside the State's obligation. Have you any idea what it costs for upkeep of these buildings? Why, it is enormous. What do you expect from a building

built in 1845? Or even in 1865? The bill for upkeep year after year is entirely out of proportion to the value of the property, and no well-organized business institution in the country would continue in its line of business property that cost them so much to maintain year in and year out.

Not only have we been lax in providing for new construction, but we haven't met the ordinary demands made from year to year for the preservation of the property we already own and have in operation. Let me read some figures to you that are astounding. For the last six years the State Hospital Commission has requested the Legislature to appropriate for permanent betterments and new construction in our civil hospitals only, that is, in fourteen hospitals, \$49,367,027.14. This has been requested. It was for betterment of water supply, for betterment of protection against fire, and for necessary improvements. What did the Legislature appropriate in those six years? Bear in mind they were asking for nearly fifty million dollars. They appropriated \$15,436,000. Now, that means only one of two things. It either means that the Legislature has been grossly derelict in its obligation to these hospitals, or it means that the commissioners probably ought to be in some of the institutions themselves.

The truth of the matter is that appropriations for betterments and construction of State hospitals have fallen into political argument. Now, let's be fair about it. Let us call a spade a spade. Here is the record of appropriations. In the two years preceding my advent in Albany, on the first of January, 1919, for construction there was appropriated \$2,347,000. In my first term, 1919 and 1920, there was appropriated \$8,969,000, and in the two years following me, the appropriations fell down again to \$4,389,000.

I state these figures for a specific purpose, and it is this: That you cannot get away from politics unless you build the hospitals from the proceeds of bond money, because



bond money does not count in the "political economy" record of any governor. If we were dependent for annual appropriations for good roads on any other than the bond-issue method you would never have them. If you had to reconstruct the Barge Canal from annual appropriations, you would never have the canal. You would get it ten feet at a time and you couldn't get it any other way.

It is impossible for me to resist the temptation to speak about the political charge that is being made against me today of adding names to the pay roll of the State. Some of my opponents say I added 511 people to the pay roll of the State—and it has been a great source of pleasure and satisfaction to me in every political meeting to admit it. It is true. But at the same time it has also been a source of satisfaction to say that the 511 people whom they find on the State's pay roll who were not there when I went to Albany on the first of January are nurses and attendants in the State's hospitals. And we secured a large part of the 511 by making the positions more attractive to them in the way of salaries.

It is a fundamental principle of economics that you get what you pay for. You don't get any more, and it is your business to see that you don't get any less. If anybody thinks he can secure nurses and attendants to take proper care of these people at the price the State has been paying, he has another guess coming, because it cannot be done.

I remember the superintendent of the Rome Custodial Asylum for Feeble-Minded Boys came down to see me. I was looking over his pay roll and I said, "Doctor, just about what type of men are you able to secure for \$40.00 a month?" He looked around to see if there was anybody listening, and when he was sure that nobody was in the Executive Chamber but the two of us, he said, "Well, Governor, to tell you the real truth, they are just a little bit

better than the inmates, and all we expect them to do is to keep the boys from fighting."

I have here a letter from Dr. Haviland, President of the Hospital Commission, written to me on the twentieth of September, in which he stated that the new salary schedule effective at the beginning of the State's fiscal year on the first of July last, meant a net gain of 134 ward employees and 58 nurses. Let us make up our minds that we cannot get this service unless we pay for it. Economy is all right. Everybody talks about it. Everybody likes to hear it talked about. It sounds particularly good to a man or woman the day after they get the tax bill. But you have to look at the other side of the picture—that you cannot do the job unless you pay for it. It is no economy for the great State of New York to leave the hospitals in the condition in which they are today. If it were known in any other part of the country, I'd sooner give anything I have than be obliged to hang my head in shame when it would be called to my attention.

Let's take it again from the standpoint of good business. The State of New York is supposed to house within all its hospitals their employees. That is the most economical way of dealing with them. Are we able to do it? We are not. We have been obliged to take these employees and throw them upon the hospitality of the neighborhood where the hospital is located in order to have room for the patients. What has that resulted in? According to the letter sent me by Dr. Haviland on the eleventh of October, we are paying \$400,000 a year—\$400,000 a year—for what the Hospital Commission refers to as "commutation." That means board and lodging for the employees of the State in buildings and cottages in the vicinity of these institutions simply because we haven't any room for them. And the Lord knows, the room we have to give to them is so inviting that you can't expect any very high-class employee to come in and give his services

to the State in view of the accommodations the State has to offer him. From the standpoint of business, \$400,000 is four per cent on \$6,000,000, and we are throwing it away. We are giving it to boarding houses, hotels, cottages, roadhouses, in the vicinity of the different State hospitals.

From the standpoint, again, of good business, what great corporation in this country pursues the policy of making permanent improvements out of its everyday revenue? The State hospitals constructed today have a life of at least a hundred years. These old-fashioned wood and brick ones with a slate roof on top of them are approaching their hundredth anniversary. What about the building of today constructed of steel and concrete? It is safe to say it has a life at least of a hundred years.

If that be true, why should the taxpayers of today stand the full cost of their construction? Why shouldn't some part of it be spread over the next generation and the one to follow that one? That is a good, practical business suggestion. What would become of this city if it had to pay for all its great public improvements from the taxpayers of the year in which the indebtedness was incurred? How could you have \$300,000,000 worth of subways, \$30,000,000 worth of docks, \$25,000,000 worth of bridges—unless you were able to spread the cost of the permanent improvements over the generations that are to come?

Nothing is more stupid in the government of the State today than to construct permanent improvements out of the current revenues of a single year or of two years. We have been severely criticized for that in the Good Roads problem, and justly so. I answered that by saying: Unless you had built them from bonds you never would have got one hundred million dollars' worth of connected State-improved highways.

Let us consider just for a moment what \$50,000,000

means. Fifty million dollars is a small amount of money in the State of New York. Put out at twenty-five-year bonds, interest upon it can be paid, sinking fund can be accumulated to amortize it for one-twentieth of a cent a year on all of the real and personal property in the State of New York. Now that is the truth about it; \$50,000,000 sounds big. We are getting used to big figures these days. One mill, one-tenth of a cent, assessed against all the real and personal property of this State raises \$8,000,000. This bond issue can be paid for and the interest paid on it from time to time for one-twentieth of one cent. The State is not heavily bonded for a State of its size and the magnitude of the enterprises in which it is necessarily engaged. After all, we owe in this State less than \$250,000,000. Compare that with the indebtedness of the City of New York. And the City of New York is just a unit of the State government. It is just one creature of the sovereignty itself, and its bonded indebtedness is in excess of a billion dollars. So that the creature is good for a billion, and the sovereignty is at the point of \$250,000,000.

Of course, bear in mind that I would be the first man to caution slow work on building up a wall of indebtedness around the State, but when we consider anything as important as this, something that must be done anyway, something that means better business principles, why, then, to find fault with a bond issue is really not in the interest of application of good business principles to government.

At the close of this part of my remarks I want publicly—not in my individual capacity, but as Governor of the State—to extend the thanks of the people of the State to the State Charities Aid Association. They certainly did get behind this with a strength and a vigor that I don't think could be equaled by any other organized group in this or any other country.



I want also to thank the newspapers. They have elevated this question out of the realm of partisan discussion and taken it solely upon the merit of what we are trying to do. To all those who have given their aid I feel I should extend the gratitude of the people of the State, because there is no doubt about what will ultimately happen to this bond issue.

That closes all I want to say about better times so far as the wards of the State are concerned. But I have something to say about better times for all the people of the State, for those who are struggling in the State, and for those who come under our especial care, as far as we are able to extend help to them for the preservation of their health.

The first thing I want to speak about is Child Welfare. Many of the little bulletins I have received from *Better Times* show work for children on the front page. Nothing makes the same appeal that children do. We have been brought up to believe that, and the hardest heart in the world must of necessity feel for the helpless child.

You are familiar with the Child Welfare statutes. You know exactly what the State sought to do when it changed its policy. I am in favor of the State itself subsidizing the community which takes care of orphan children, dollar for dollar, whatever they are willing to appropriate. We pay the farmer for the tuberculous cattle we kill, and we pay the farmer for the sheep that are killed by dogs. What do we give to the widowed mother for the care of the children? It is all right to leave it to the community in a city like New York, which is big-hearted and generous; but, without mentioning localities, I can say in a general way that they are not all like New York. They should be encouraged, and they should be encouraged by the State itself.

I am looking forward to better times for women and children who are engaged in industry and who have to work in factories, and for that reason I have used up a good deal

of my energy talking all over this State about the creation of wage boards to fix living wages for women and children in factories. There is no question about the soundness of it. Other States have adopted it with a great deal of success.

Men fix wages by the power of their unions or organizations. You hire a plumber, a carpenter, a bricklayer, and before he enters upon his duties you know exactly what you have to pay him. But here we have a great army of unorganized people not entering industry as a life work, not able to enter industry because of the peculiar nature of the things they can do, not able to battle for themselves as individuals, and practically helpless. I hold that the State should reach its strong arm into industry in this State, and by a fair, just, equitable process of reasoning figure out what should be the minimum wage in any particular locality in any particular industry required to keep a woman or girl in decent health and in decent comfort.

When I have advocated that theory, I am charged with being in favor of paternalism. I am unable to see that. I am unable to see that anything along that line can possibly be construed as paternalism toward any group of persons. I take an entirely different point of view. I view it as a movement by the State for the preservation of the public health, because if you haven't a healthy, vigorous womanhood you haven't very much promise for the race. You might as well hang up the shades and quit.

There is nothing revolutionary about fixing by law the hours per week in factories for women. The State undertook this regulation some years ago. It is only a question today of whether or not the unorganized should reap the same benefits that are coming to those who are organized. The same argument that applies to the minimum wage applies with equal force to the eight-hour day.

I am looking forward to better times along the line of how far the State can go in the preservation of the public health. The three great functions of every government are the preservation of life, property, and public health. There is no question about that. It has never been denied.

It was certified to me in January of this year that large communities in this State were entirely without doctors. One particular community on the Canadian border showed village after village in which not a single physician resided, and many villages where a residing physician had reached the age where his usefulness was practically cut off.

Well, as an economic problem, we can see why that is possible. Why should the young student of medicine devote himself to a small village on the edge of the Adirondack Preserve, taking his chances with the climatic conditions there in winter, the difficulty of getting over the roads, as against the opportunities given to him in a great center of population such as we have here?

What is the duty of the State? The duty of the State is to make it worth while for the young physician to practice in these sections of the State so that there is no inducement that will take him away. Our great laboratories and clinics here are of inestimable worth to the young doctor practicing in the great metropolis.

But the State offers nothing like that to the young physician. Yet the health of the community up there is just as much the concern of the State as the health of the people in a greater center. At the last session of the Legislature we amended the Public Health Law and took the most forward-looking step that has yet been taken in this regard—a State subsidy toward establishing the rural health center—to give advice and help to physicians who desire to operate in such localities, and our Better Times Association could do no

better thing than to offer encouragement to these localities to the end that they may benefit by application to the State for some of these funds.

On the question of education, I am thinking of better times for the children on the farm. There rests upon the people of this State the very sacred obligation to give free education to all the children in the State. It is not a matter of choice. It is a matter of duty and of sacred obligation. In Albany, within two weeks, the State Commissioner of Education, Dr. Graves had the following to say:

The cause of the meager opportunities for education in the rural districts is the archaic system to which the rural regions in New York are still clinging.

Let us see here if this question of rural education is not something which concerns the people who live in the city of New York. Bear in mind that we are all fed and clothed from the land. We have thirty-five cities altogether, but five cities contain seven and a half of the ten million population. What is going to happen if everybody goes to the city? What are we going to do about it? There is going to be an economic lack of balance as between city and country and things will not run right for us.

Undoubtedly, one of the things that helps to drive men and women from the farm is the lack of proper educational facilities for children. What lies closer to a man's or woman's heart than the education of their children? And if a man finds he cannot get these facilities from his State because he happens to pursue a rural occupation, he will try to find his way to a great city where that opportunity will be given to his children.

It is a matter of great concern to all the State. It is not a rural problem for the farmer and his wife to figure out for themselves in front of a log fire—but it is something for



all of us right here in the heart of New York to determine, whether the State is doing its full duty by the children on the farm by comparison with the children in the city. The State educational authorities say we are not. Let us give more attention to it.

I am looking forward to better times in the regulation by the State of automobile operation and the elimination of grade crossings. In 1921, 2700 people were killed in this State by automobiles, and 36,300 people were seriously injured by automobiles. There is a problem. You cannot do away with the automobile. It has come to be necessary in business and, in fact, in every avenue of activity in the State. What are the real facts about this?

First, the State is assessing the owners of automobiles in this fiscal year to the tune of \$20,000,000.

That is what the State takes away in license fees from the people who own automobiles. Twenty million dollars. What does the State do with it? It uses \$5,000,000 for the upkeep of country backroads where no automobiles, if any, run; and the other \$15,000,000 go right into the cash drawer for current expenses of the State. Not a single dollar, not even a quarter, is used for the regulation of the traffic. The State is even without the information as to who is responsible for all these killings. There is no central bureau of information that can indicate who is responsible for such killings. The former comptroller of the State, Mr. Wendell, had this experience: His wife was killed on the corner of State and Eagle Streets, Albany, and the chauffeur who killed her had killed two people before that. This was found out by accident. And the State is absolutely helpless.

If you live down here in New York you cannot run an automobile without a license. And you must demonstrate you can run it before you get a license. But if, perchance, you live in Yonkers, you can run one without a license—

and run it right into New York City. It is a matter that deserves careful consideration.

I should like to be backed up by the Better Times Association. Of course, I will do my share.

Looking forward, in conclusion, to better times in housing for our people, this is a very great problem, and up to this time, it seems to be one of the greatest problems that any agency of the government has ever attempted even to study.

We have devoted ourselves to the propagation of fish, and to the protection of the Adirondack black bear, the deer and the elk, the birds, and the forest itself. We have directed our attention against the pollution of our streams. But nobody ever thought about erecting houses enough for people to live in with decent comfort. Housing is not a question alone of supplying the houses. It is supplying them of a character that makes home what it ought to be. And how can you expect good health and satisfied citizenship if home is not to the people what they think it ought to be and what we think it ought to be?

We have created an agency known as the State Commission on Housing and Regional Planning to study the question of housing and regional planning so that there may be a State agency ready at least to produce, when necessary, the facts that have to do with that all-important question—and to that let us promise our assistance here tonight.

This sums up what I have to say about Better Times. I am looking forward to them in the State because I know that we shall be able to conduct ourselves in such a way as to deserve them. The State of New York is the greatest in the Union. And the Union of States makes up the greatest country in the world. New York is an empire in itself in riches, in wealth, in the power of her great natural resources. Certainly, we owe it to somebody—we owe it to some Power

that gave us this great position, that same Power which designed even from the discovery of the country that this was to be the market place, as it is today, of all the world. If we owe any debt of gratitude, we owe it to Divine Providence, to see that we in some small measure repay it by taking care of the poor, the sick, the distressed, and the afflicted, who were the objects of His special care during His time on earth.

## PROGRESS IN WORK FOR STATE HOSPITALS

Governor Smith's address before the New York State Conference of Social Work in Troy, November 16, 1927, gives the record of progress and the continuing needs of the State, four years after the "Better Times" speech.

Government of the State is divided into two branches, the strictly business side and the human. On the business side, I put the construction of highways and bridges, the operation of the Erie Canal, the supervision of insurance companies, banking and trust companies, and such kindred and related activities; while on the human side I put the inspection service for factories, the enforcement of the labor code, the care of crippled children, of the deaf and dumb, the blind, the feeble-minded, the insane, and the people suffering with tuberculosis. This is the human side of the government, but it has nevertheless to be run on business principles or it is not going to be successful.

I should hate to think of what would have happened in the last twenty years of my practical experience if the solution of these problems had been left entirely to the officials of the government. Were it not for the outside assistance; were it not for the production of the facts and the figures; were it not for the marshaling of the arguments; were it not for the exposure of the actual conditions that could only be made by outside agencies; were it not for the Legislature, in which must originate every activity of the government that costs anything, even down to a five-cent piece—I should hate to think what would have been the situation.



In 1923, I would scarcely have ventured to suggest to the people of this State that they permit a bond issue of \$50,000,000, unless I had expected to be backed up by men who would be interested. The chairman of this meeting was active in the Citizens' Committee, which removed from the discussion of that bond issue the slightest trace of partisanship.

One of the great troubles with the State's charitable endeavors in the past was that the State lacked policy. Every time a new governor came in he had a new idea about the matter. If I hadn't stayed in so long I doubt if I should have accomplished very much. I only laid the ground work in 1919 and 1920, when I retired for two years, only to come back and pick up where I left off. While Mr. Folks was speaking, I jotted down here that we have had five governors in ten years—every one with either a new policy or with no policy; mostly without any.

The State Hospital Commission in five years requested from the Legislature a total sum of \$45,000,000. The Legislature gave them \$5,000,000. Somebody was right, and somebody was wrong. From the platform in Carnegie Hall I said that if the Legislature was right, the members of the commission ought to be in one of the institutions instead of managing them. The fact of the matter is that the commission was right, and not sufficient attention was paid to the needs of the State hospitals and the various charitable institutions which the State has under its control.

All this is foolish political talk that you hear about cutting down the expenses of the State. I have signed bills appropriating more money in my time than all the governors for fifty years before me. I know how to cut it down. I can do it. But I want somebody to pick out for me what activity of the State must suffer when I do it. I will certainly never do it at the expense of the helpless and defenseless who can-

not come back at me when I do it. And if I have to do it, I will do it against the fellow who can fight me back.

The three great items in the Appropriation Bill are charities, education, and public works. Nobody wants anything taken away from the Department of Education. Everybody wants that department supported, so far as the finances of the State are concerned, to the very last degree of efficiency. There can be no doubt about that. Nobody wants it out of public works. In fact, the sentiment and trend is entirely in the other direction. Certainly, nobody wants it taken out of the State hospitals for the care of the insane or the charitable institutions. All the rest of the expenditure of the State is practically statutory. It is fixed by law.

Now, we want to talk some practical business. I want something of benefit to grow from this little talk of mine tonight. I want some help and coöperation on the question of what is going to be the solution of this hospital problem.

First let us talk about something depressing—the enormous growth, in recent years, of the number of insane people. For the first time in the history of the State we are going to attempt to find out what it is all about, and for that reason, out of the bond money, in the Medical Center in New York, on a plot of ground dedicated to us by Columbia University, we are building an institute for the study of the causes of insanity, trying to strike it at the root, rather than treating people for the rest of their lives after they have reached that hopeless stage where there is nothing left for the courts to do but commit them to the custody of the State.

Let us look at that growth. In the fiscal year of 1923, there were 411 new admissions over and above deaths and discharges and paroles, new patients to be cared for, and a new obligation on the part of the State for attendants, for nurses, for doctors, medicine, fuel, clothing, food and everything which goes into the care of the human being. In 1924, this

jumped to 950. In 1925, it made a high peak in the history of the State when it reached 1,333. In 1926, it dropped back to 818, and in 1927, the fiscal year ending June 30, we reached the peak when 1,891 new people were received in the State hospitals. The fiscal year beginning July 1, 1927, and ending the 30th of next June, threatens to be even worse, because in the first quarter we have 650. If that is carried through the year the new admissions will reach 2,400 people in the year.

All the psychiatrists and doctors say that after an institution reaches a population of 3,500 inmates, it is difficult to do anything for them. Beyond that point of population it is difficult to administer a hospital, and it is not possible to do much more for them than to keep them housed until they die.

Well, that hospital of 3,500 inmates needs about 1,500 employees—doctors, nurses, attendants, firemen—all the various kinds of help that make up the hospital. It is really a village in itself. It constitutes a village of 5,000.

What does it cost? We are just building one for 3,500 patients and 1,500 employees in Orangeburg, Rockland County, and without putting a shade on a window, without putting a piece of oilcloth on the floor, without buying a chair or a mattress or a bed, that hospital is going to cost \$10,500,000.

Our rate of increase means a new hospital every two or three years, and we have got to commence to create them now. With the fifty millions which were authorized by the people in 1923, we have just about scratched the surface. Let me give you the actual figures. The overcrowding on the first of July, 1927, was 9,870 people. The total population at the same time was 46,310. Provision has already been made for new patient beds to take care of 8,201. Now, if tonight by a wave of the magic wand or by the lighting of

an Aladdin's lamp there could spring up out of the ground every single hospital which has already been authorized, you would still have an overcrowding of 1,669 people.

What is the remedy? The \$50,000,000 bond issue is exhausted. The \$10,000,000-a-year bond issue must be allocated to the purposes for which we promised. They are all pressing. This year alone for the construction of office buildings that the State actually and positively must have for the proper transaction of its business there is to be allocated from the \$10,000,000 a total of \$7,500,000. We have not touched the armories, we haven't taken in any of the other new projects which we promised, and they all will have to be taken up.

So we have this problem of the State hospital for the insane staring us right in the eye. I say nothing at all about the feeble-minded, because if we are unable to meet this problem, there is no use of taking any more over. What would the State of New York do if the law provided that any feeble-minded person committed by a judge of the Supreme Court must be cared for by the State? We should be swamped. The only thing that saves us in that problem is that we do not have to do it until we have room for them, but we are compelled to take the insane whether we have room for them or not.

Dr. Pierce Bailey, back in 1920, made a statement at a meeting in Albany that there were 26,000 feeble-minded people in this State. That is reasonable to expect if there are 48,000 insane people, and we are taking care of just 6,000 of the feeble-minded, and the other 20,000 are moving around in society. When do we find them out? We find them out when some hideous crime shocks a community, and society has to pay twice as much in an hour and a half as it would have to pay for years of training for the guilty individual.



So the real treatment of the feeble-minded problem in the past has been without system, without even good judgment or even common sense. Go down to the executive office in Albany and look at the applications for executive clemency and look at the pictures of the prisoners. I am satisfied with my limited knowledge of it that the overwhelming part of the population of the State's penal institutions today are feeble-minded. They are not treated in time. They were not trained in youth. There are very few of what we call really intelligent, hardened criminals. Bank burglars are scarce today. They require skill and brains and they are not as plentiful as the so-called hold-up and stick-up man. Anybody can do this sort of thing and it is particularly the work of a feeble-minded person.

At Wassaic, Dutchess County, we are starting one of the large institutions for the care of the feeble-minded. Six million dollars have already been appropriated, so that the State is embarking on at least one good big effort to be of help to the feeble-minded in this new institution at Wassaic.

But this hospital problem is so big, it is so costly, it is so pressing, that it has got to be treated in a class entirely by itself. Now, this year there will be none of the institutional bond money. I am not ready to say that if we had any of it we would be able to make any great rapid progress this year through the commitments already made, but I do say this, that we cannot afford to let the year 1928 pass out with the money already allocated and already mortgaged without having some definite plan for the future.

## CRIME AND DEALING WITH CRIMINALS

### *Executive Clemency*

This material is taken from an address at the fiftieth annual meeting of the New York State Bar Association, January 22, 1927.

It is a couple of years since I spoke to the Bar Association, and there is usually assigned for the Governor, I believe, the subject of the State of New York, which gives him a latitude that practically permits him to talk about anything he feels like. However, since I regard lawyers as officials of the State outside our great judicial system, it is a wonderful opportunity for the Governor to unburden himself and get anything off his chest that is resting there in any uncomfortable manner.

I am going to take advantage of this opportunity to say something to the people of the State of New York, through the men that can best understand it, on a subject on which I have been waiting to be heard for quite a long while, and that is this question of pardons and executive clemency.

Now, any time I advance any kind of a political motion by reason of which my political opponents want to brand me as a Socialist, I will give them no argument. They can say anything they like about my ideas about nominations—as to how they should be made, whether in conventions or whether by direct primaries—and they will not hear a peep out of me. But I was born down here on the lower end of this island, and I come from the old-fashioned kind of stock that never lets anybody put anything over on him. Now, it is because I firmly believe there was an attempt made to

put something over on me in a political way, on this executive clemency talk, that I am going to lay it right clear before you tonight.

The legislative committee—the so-called Baumes Committee, as we call it after an old friend of mine, Senator Baumes of Orange County—we served together in the Assembly eighteen or nineteen years ago—looked into the question of executive clemency, and I have never been able to get it out of my head that that report was written with a political motive. It did not work out, however, judging from the election reports. I said little or nothing about it during the campaign, but let us have it out tonight and let us get at the facts.

Under the law all pardons are registered in the office of the Secretary of State, all commutations of sentence are registered in the office of the Secretary of State, merely as a matter of record; but all of the facts are in the Governor's office. When the Baumes Committee undertook to look up pardons and restorations to citizenship, they forgot to come into the Governor's office, but they went to the office of the Secretary of State—and what did they find there? They found that 250 pardons were issued in one year; they found that they were issued to Governor Smith for larceny; Arthur Sutherland for burglary; Benjamin N. Cardozo for unlawful entry; Frederick E. Crane for bigamy; and so on and so forth.

That is all the record there was in the Secretary of State's office, and upon that record they proceeded to write a report that leniency to criminals on the part of the Governor was encouraging crime. When I saw it, you can imagine how I felt about it. I immediately saw that was an attempt to get somebody in the State to believe that pardons and restoration to citizenship and so forth were dealt out from the Executive Chamber as a matter of either private, personal,

or political influence, when, as a matter of fact, such is not the truth.

The people of the State of New York gave the pardoning power to the Governor to use it in proper cases, and the Governor who does not use it in proper cases is a coward.

Now, what is the fact about it? What makes 250 pardons in a year look terrible? I will explain it to you.

In the first place, before you can restore a man to his right to vote you must pardon him. That operation usually takes place after he has been out of prison at least five years and can supply some evidence to the Governor that, during that period, he has been earning an honest livelihood. Out of about 250 pardons, probably 100 of them are issued to restore the right to vote. No mention of that was made in the report—not a word was said about it. I asked permission to go before the Senate of the State of New York and explain, and it was denied to me. So I will explain it to the Bar Association.

That is one brand of pardons that takes up a great many of the 250. We have another kind of pardons, and that is the one issued to a man to permit him to complete his citizenship papers. If a man is convicted of a crime before he becomes a citizen, because of some ruling on the part of the judge, in the naturalization courts they will not consider his application for full citizenship until he gets a pardon from the Governor.

What Governor is going to refuse to pardon a man that has paid his penalty to the State in full and that wants to become an American citizen? Who is going to say "No" to that? Yesterday afternoon—or the day before yesterday—I signed forty-two of them at once. That is forty-two new pardons for 1927, so that we can keep up with our record of 250 last year.

Then, getting down to commutation of sentence: Cer-



tainly every governor is going to commute sentences; we cannot get away from it. We have to do it in a great many instances to help the district attorneys in the different counties of the State. After a man is convicted, the district attorney calls him into the inside room and says, "Now, tell me something and I will help you. Who is the other fellow? Who was with you that night?" And the fellow tells. The district attorney afterward comes to the Governor and says, "I should like you to make good. Take a little off this fellow. He helped the State." What are you going to do? Are you going to say "No"?

Let me make this statement here, that I have never commuted a sentence yet except upon the express recommendation, in writing, of the judge or the district attorney before whom the man was tried.

Now, if there is any one who thinks that it is done as a matter of favor, let him come and try it.

The report also said that ten respites in one year—ten—were given to murderers. That was true; but it failed to say that one murderer of the ten respited got sick, and that each respite was granted at the request in writing of the district attorney, who was unwilling to let that murderer go to his death until he was ready; it also failed to say that nine of the ten were eventually electrocuted, and that the only one who escaped was the Ross murderer in the Belmore Bank case, and on that occasion the Governor acted upon the express recommendation of the district attorney of Nassau County, because that prisoner became a witness for the people.

As a cold matter of fact, according to the records, while this report was written in such a way as to let everybody think that the Governor every so often took a trip to Sing Sing, unbolted the door and said, "Out with you"—as a matter of fact, all who were pardoned outright in that same

year were just ten men. And how did that come about? Four out of ten of them were marked so that they could die outside of the prison—they were dying in prison; one man that I pardoned died while he was changing his clothes in Sing Sing prison; the balance of them were pardoned either because their own lives were threatened in prison, or the representatives of foreign countries desired to send them home to their own country, to their folks and people, and because of our parole laws the sentence could not be commuted.

Now, that is the fact about it. Now and then you see something in the newspapers about the Christmas present of the Governor to the criminal. Well, it happens sometimes that a man who has had a long sentence, and who has behaved himself in prison, and who is due to come out in February or March, has his term shortened so that he can get out a little before that. Is there any great harm in letting him home to his family for Christmas? Is there any mistake in the leniency of three or four months on a possible ten-year sentence? That is the kind of men who are allowed out immediately before Christmas, although you might be led to believe from a reading of the report that there had been a general jail delivery.

There has been a whole lot written, and a whole lot has come from the new institution that has been started here recently, called the Bureau of Criminal Research, about Bum Rodgers. Why, I knew nothing at all about Bum Rodgers; he didn't mean anything to me. He came before me as John J. Rodgers, and let me say this to the members of the bar, and I say it with respect to the memory of the judge, because during his lifetime he was a great friend of mine. Anybody that ever got a letter during his life from John W. Goff saying that a certain prisoner had been improperly

imprisoned could rely upon that as being pretty nearly right, and it does not make any difference what the prisoner's previous record was. Let it be as black as night; but if he is improperly imprisoned for that offense, he ought to come out, and that is why the pardoning power is lodged with the Governor, to straighten these things out afterwards.

### *Prison Reform*

Governor Smith submitted, for the first time as Governor, his reflections on prison reform in an address to the convention of the American Prison Association in New York City on October 20, 1919.

So far as this State is concerned, the first thing I would say is that the present system of putting upon the Governor of the State the final decision as to whether a man should go to the death chair, or whether he should serve a term of life imprisonment, is entirely wrong. That should not be in the hands of any man who is charged with the governorship of a State, because he can scarcely make the decision and at the same time do justice to the prisoner and the State.

The second thought that I have in mind refers to the pardoning power. I appreciate the arguments made against a board of pardons; that it practically creates a new court of appeals. But, on the other hand, here is a great group of men and women in the prisons of our State, and under the Constitution of the State I am the only man who can do anything for them. How is it possible for me to study each case? What case may have proper attention? The only ones which get my attention are those which are brought to me by some one traveling to Albany to see me, perhaps about a specific case. Surely, I never would have time to go through the list of applications for executive clemency. I would say that if

any man did do that he could do nothing else, and then he would not do justice.

The next thing I would speak of, so far as this State is concerned, is industry within the prisons. I can think of nothing which is so deadly, nothing which will so tear down the spirit, nothing which will so sap a man's energy and ambition as confinement in enforced idleness. If we have no other idea in mind except the question of punishment, then that is one thing; but if, on the other hand, the State is interested in returning the men or the women to society as useful citizens, it will never be able to do it unless during that period of confinement their thoughts and their minds are occupied by what they are able to do in life. What work means, what satisfaction it brings to a person at the close of a day to say, here is what I have accomplished today! That is true of people in prison just as it is of individuals out in the world. We all like our time for play, but the real right-minded man wants his time for work also. He cannot play all the time without breaking down in one way or the other, and that applies with equal force to the man in prison. The trouble with the prisons in our State from the standpoint of industry is this: We are trying to work with antiquated machinery, old-fashioned tools, and the finished product as it comes from the prison is not useful except in rare instances. We have been obliged practically to get away entirely from prison-made furniture, something the State buys a great deal of, because our plant is not capable of turning out high-class goods in keeping with the surroundings; and you can hardly blame a public official who would be loath to put a \$32.00 desk in the corner of an \$8,000,000 building. Modern machinery and modern equipment is absolutely necessary to keep the products of the prison up to the standard required for public use.

The superintendent of our prison system made a happy



suggestion at the last session of our Legislature, which, I think, might be well for the delegates to take home to their own States. He suggested that the prisoners make the number plates for automobiles. The machinery for that work would cost about \$75,000, but see what it will mean to the State of New York. We have 1,200,000 automobile plates manufactured every year. Our last contract was given to the State of Illinois, and here we have men sitting in prison with nothing to do.

My next suggestion, I am afraid, is too far in the future, although I am strongly in favor of it. But we might as well talk of these things with the hope of getting them some day. I refer to the abolition of the cell-block system. I am unable to think that a man, particularly the first offender, can feel deep down in his heart that the State is treating him like a human being if it is going to lock him up in a cage overnight. That is the one great thing we want to accomplish. We want to make something out of the man. I should feel it very much if I had to sleep in a cage like that, if I were in there for but one purpose, to be punished. I should feel the State was taking out of me with all the force and vigor it could a satisfaction for my crime, and that it had no interest in my future welfare.

I received the shock of my life when I went to a reformatory in this State. I thought it was a place to send the young man whom we did not want to mingle with the hardened criminals. I thought it was a place where we could send a young man to let him feel a little of the charity of the State, the goodness of the State to let him feel that the State had a real heart and did not want to send him to prison. When I went into that reformatory to look over the cell-block system, with the single-door locking at night, the cramped-up cell, the open toilet alongside the bed, I said this is not a reformatory except in name. What is there about this that is

different from a prison, and why raise a false hope in the heart of a young first offender by making him believe he is going to a reformatory when he is going into a regular prison? The fact of the matter is, I am reliably informed, that where a young fellow knows anything about it he asks to be sent to some place other than the Elmira Reformatory. He does not feel the State is doing anything for him in sending him there.

We have a prison in this State of the modern type, that at Comstock. Of course, the ideal system would be the cottage plan, if it could be put into operation. I really do not believe that in the twentieth century we have to cage men up in the same way they did in 1834 and 1835, even if we take it from the standpoint of whether or not they will escape. Today it is not so easy to escape from prison even with an automobile or motor cycle. A man cannot get very far away before he is found, and probably it would be a great deal better if one or two occasionally did get away than to destroy hundreds of them by tying them down to the floor.

I am coming to another subject, the earnings of the prisoner while in confinement. I feel strongly on that subject. It has been my experience not only since I have been Governor, but all the years I was in the Legislature, that the real sufferers as a result of a prison sentence are the dependent members of the prisoner's family. I do not think it is a question that admits of any discussion. The prisoner is taken over by the State, supported, fed and clothed; and his children, if he has any, and unfortunately a great many of them have, and his wife are thrown upon the mercy of friends and relatives or else become public charges. The most pitiable cases one can listen to are constantly brought to the attention of the Governor, actual want and actual starvation, as the result of the breadwinner being locked up in the State prison. In some instances it is unfair to the

State to hold a man in prison when the children are in want ; it is unfair to society to let him out. In a great many instances the man is where he belongs, but that does not take from the State the obligation to do something for the man's wife and children while he is in prison. Some method should be found ; if I had the time I should be willing to go into a study of the subject, but that is in the hands of people well qualified to study it. At the beginning of my term a prison commission was appointed which is making an exhaustive study of the whole prison system of the State. It intends to bring in a comprehensive report accompanied by proposed legislation designed to remedy conditions.

### *A Modern Method of Dealing with Criminals*

Governor Smith's long experience with the pardoning power and with the problem of the delinquent and the criminal formed the basis for his suggestions toward a modern method of treating criminals, before the Crime Commission at Albany, December 7, 1927.

*Governor Smith.* Now we come to the big question of a sensible, modern, up-to-date way of treating criminals. In the first place, I believe that the power of sentence ought to be taken away from judges, entirely, and I further believe that fixed and definite sentences should be made dependent upon the finding of a commission ; in other words, to go through the machinery operative when a man is brought in before the court and accused of murder in the first degree, I don't believe that the judge should have the power to sentence that man to death, because that power has done more to prevent verdicts of guilty, than anything else I can think of.

Many a murderer gets away because a jury will not convict of murder in the first degree after the attorney makes

that awful plea and summation that he is going to be shuffled off into eternity. You know what a good, bright lawyer can do before a jury, how he can work on them. The jury ought to determine guilt or innocence without anything in their minds except, Did he commit this crime or did he not? And as soon as the verdict is rendered and he is found guilty, he ought to be turned over to the State of New York for such disposition as would be determined by a board of probably the highest salaried men that we have in our community. I do not think it would be a mistake for the State of New York to set up a board properly constituted of psychiatrists, alienists, lawyers, and students of criminology and let them make the final disposition of that man in the best interest of the State and the best interest of the man himself. Thereafter the control and disposition would remain with that body, with the power to recommend parole or transfer, presumably to a State institution for the care of the feeble-minded or the insane. I believe you may have to have a constitutional amendment for it. I don't think you can do it under the Constitution. This body no doubt ought to have the power to recommend parole to the Board of Parole, in view of any extraordinary circumstances that come only to the observation of that board of trained men.

In the course of a year this may reach a point where it will cost us perhaps a million dollars. But what would that be compared to a proper, modern, scientific handling and treatment of the subject of criminality by the richest State in the Union?

*Secretary Smith.* Would you extend it to all crimes, or relate it to felonies, Governor?

*Governor Smith.* Felonies. You would have to leave misdemeanors to the local authorities, for a start anyway; it would be so big an undertaking, you could not put the whole thing into it at once; you might develop it afterward.



*Secretary Smith.* That is what I wanted to have brought out; there are so many minor offenses and misdemeanors.

*Governor Smith.* No, I don't think you could start it that way; but if it proved successful, and it could be shown it was a saving to the State in money in the long run, it would develop.

*Mr. Wales.* Governor, if you had that sort of a commission with those powers, why could not that commission exercise the powers of the Parole Board?

*Governor Smith.* No, I don't want to get the commission into the question of prison conduct. They would not be the type of men to pass on that. Our wardens are different types of men from the psychiatrists. I think the warden is the man whom the members of the commission should consult, for they would have to get facts from some one else; they would not be at the prison all the time.

Now in a clearing house, those men ought to be under close observation; in prison, for a period that the psychiatrist suggests is necessary to make some diagnosis of a case so as to determine all the factors. Many a man is in prison who ought to be in some place where he would get better medical treatment.

*Mr. Rice.* Would you make all sentences really indeterminate?

*Governor Smith.* I would let the board fix the disposition that the State is going to make of that man.

*Mr. Rice.* And publish it as a definite disposition of that man, for the attention of potential criminals?

*Governor Smith.* Yes; let them publish it.

*Mr. Rice.* In other words, let them sentence him and determine that a man, convicted of such and such a crime, shall serve at least five years, three years or eight years, as the case may be?

*Governor Smith.* Yes, let them fix the sentence. Let me

show you another effect it has. Among criminals, hope springs eternal. When a criminal takes a little chance today, he takes it with the view that there is some one he can turn to to do something for him, if he is caught. But if he feels that he becomes the property of the State of New York, and it is up to some one who is not in touch, so to speak, with the fellow on the street, the deterrent effect would be greater, to my way of thinking. . . . I think it is necessary to publish what happens to those fellows, because if you don't, you remove all the deterrent effect.

*Warden Lawes.* If a man convicted of a felony is sent up with a life sentence, they probably could retain this man for life under this idea, if they saw fit?

*Governor Smith.* Oh, no, I would not go quite so far.

*Warden Lawes.* You mean he could be held up to the maximum?

*Governor Smith.* After this study, we do not have anything to do with it. After sentence, a good many things are found out about the man that the judge does not have in mind when he is sentencing the man.

*Secretary Smith.* That would necessarily reduce the number of applications for commutation of sentence because of inequalities?

*Governor Smith.* Yes, certainly; you would have it all stated right there. In 1908, I was a member of a legislative commission which investigated the inferior criminal courts in the city of New York. The charity organization of that city had prepared a chart with five years of the life of a given man whom they called John Doe, and they had a chart, half the size of the wall, so that the commission could visualize this man's life for five years in the city of New York.

They had it in days, 365 for the first year, and so forth. Every green spot on a day meant that that fellow slept in

the station house overnight; every white spot he was out free; every red spot he was in the workhouse; every blue spot he was in the penitentiary. They had a key to it. That chart disclosed three white days; then a red one, when he was in the workhouse; then he slept in the station house; next day in court; noon of the next day in the workhouse—that is a misnomer; there is no work for him to do there—then a long stretch of thirty days in the workhouse; then two or three white days; out for a couple of days; and another green day, back in the station house; then the next day before a different judge—he has given a different name, probably—and in the hurry of the police court, with hundreds of people waiting to be heard—“What did he do, Officer?” “I picked him up on the corner of Fulton and William Streets, drunk.” “Did he resist arrest?” “Yes.” “Six months in the penitentiary.”

Then he gets six months of blue, and he gets two or three more white days, with green again, and so it goes on for a couple of years with that man. Obviously, if instead of having committed a misdemeanor, being drunk, he had been a capital offender or a felon, and had come before a board of psychiatrists, a properly qualified board, you would have found in the first instance that the man was a fit subject for some institution for the feeble-minded, because an examination would have indicated that he had the mental age of eight years. Although he was thirty-five or forty, he had the intelligence of an eight-year-old. Just look what it cost the people of the State of New York to keep picking him up and slapping him into the station house and feeding him six months at a time in all those institutions!

There was nothing about him which would indicate he had come up before the judge before, except being drunk and disorderly. He made himself look penitent, he got a number of suspended sentences, the white followed red a good deal

—he would get six months the next time; then he would get a shorter period. There was no scientific treatment, just what the sitting judge thought about it; and he goes on piling up this awful expense there against the people of the city. Not one case—a great many of that kind.

We have the prison records here of young boys who developed into full-fledged criminals and in the first place were not benefited by the term the State gave them. The big story is what can the State do to help them, because if we can help them to a line of honest endeavor, we are helping ourselves. But that is not the thought so much today. A great many feeble-minded people and weak-minded people are in prison today. They may get some other kind of treatment. You know the distinction between feeble-mindedness and a degree of insanity is pretty small.

Of course, the introduction of fingerprints in magistrates' courts in the city of New York probably helps to keep track of a fellow, but in the old days they had no such system. A man changed his name and denied he had ever been arrested before, and three or four times he would receive the treatment of a first offender, through a lack of information; in the meantime no one would think it necessary to look him up. But the big thing about this advanced way of dealing with him is this: There are no two criminals alike. There are no two crimes exactly alike. There is a different set of facts and circumstances that lead up to them all. A great many of them are accidental, and if you can have a board to study this thing, spend money for it: it is worth while spending it. We are now spending an awful lot of money on prisons.

One thing has just occurred to me. If you should take it into your minds to make any trial, or to suggest any trial of the so-called modern method of handling criminals, and of having it turned over to the board, I advise you to go about it this way. Get a definite grant of power from the Legisla-



ture, with an adequate appropriation for one year's study of it by your own commission; see that that study gets the right kind of publicity and study that by itself. Get a definite grant of power to do that particular thing, as distinguished from dealing with the whole crime situation. Get a grant of power to study the new method of dealing with the criminal after conviction, so that attention will be focused on it.

It is hard to draw a statute without outside help, which you can only get from State commission or a legislative committee. It is hard to tell it to the Legislature after you have finished the product, unless you can point to a volume of testimony sustaining you. It is hard to get the resolution, unless they have been absorbing it gradually. Along that line, every big change, such as reform in the interest of the government of the State, has been accomplished only after investigation and public study of it, because people have to get ready for it. We got the Factory Code that way, Child Welfare, Workmen's Compensation. All changes, any big change in the State's manner and method of doing its business, has been brought about when the public has been educated up gradually to the change by investigation and the proper amount of newspaper comment upon the different suggestions, backed up always by a report that interested the people and was quoted from to get the facts. You can get a following for the idea; you can get your support for it; you can prepare the people for it and put the Legislature in position to adopt it, by getting a definite grant of power to study it.

### *Crime and Its Prevention*

Governor Smith transmits a message to the Legislature on crime and its prevention, March 1, 1926.

No function of organized government is of greater importance to the people than the protection of life and prop-

erty and the preservation of law and order. The penal laws were enacted to provide punishment for the violators and to protect society. The exercise of the police power for the suppression of criminals and for their apprehension is a State function.

Crimes of violence are reported, not alone in our own State; they are prevalent throughout the country. Figures showing deaths from crimes of violence throughout the country when used in comparison are appalling, and during three years beginning in 1922 and ending in 1924 there is a considerable increase. In 1922, 9,500 persons; in 1923, 10,000; and in 1924, 11,000 met death by violence. When compared with the deaths from crimes of violence in England and Wales, we find there in the year 1921 a total of 149 homicides; during that same year 237 homicides were committed in a single city in the United States. The figures are even more significant by comparison in population. England and Wales in 1923 had a population of 38,000,000; Chicago's population was slightly less than 3,000,000. There were 151 homicides in England and Wales and 389 in Chicago. In 1923, 42 murders were committed in London with its population of approximately 7,500,000 as against 262 murders in the city of New York.

A study of the criminal population in the prisons of our own State indicates that crimes of violence are not confined to the big cities but take place throughout the State, almost in proportion to the population. This distressing situation must be met in so far as the State can meet it. Our efforts must of necessity be along two lines—the punishment of crime and its prevention. In regard to punishment, it seems to me it is necessary for us to ascertain whether or not our existing criminal statutes need revision and whether our penal systems, including imprisonment, probation, parole, and the bonding system, are yielding the best possible results

in adequately punishing the criminal or preparing him to take his place again in society after he has offended against it. The administration of justice may need strengthening. That can be ascertained only by a study of the actual workings of our judicial system, in so far as it applies to the criminal law. A study of our prisons, reformatories, parole and probation systems would help to disclose defects, if any, in the existing methods of correction, and would unquestionably point the way to preventive measures. When we consider the question of prevention, there may be deep underlying causes of crime rooted in social and criminal conditions that could be brought to light by careful studies in this field.

Organizations of citizens generally throughout the country have recognized these conditions and prominent citizens are ready to coöperate to the end that public opinion may be awakened to the importance of bringing about effective measures to lessen and prevent crime. New York State because of its leadership in the nation should be the first to put the full force of its strength behind a movement directed to the solution of these questions and likely to become country-wide.

To that end, I recommend the enactment of a statute that will bring into existence a special temporary commission to be made up of four members of the Legislature, selected by its bodies, and five citizens to be appointed by the Governor. The usual powers should be delegated to the commission to subpoena witnesses and to compel the production of books and papers.

I further recommend an appropriation of \$50,000 to carry on the work of the commission.

## THE NEEDS OF COUNTY HEALTH UNITS

Small units of local public health administration, such as towns and villages, were formerly unable to afford a full-time health officer. In 1923 Governor Smith put through a program of State subsidy to rural counties for public health work. The next step was the adoption of the county as the health administrative unit.

On February 24, 1927, he called and addressed a conference in Albany of doctors and public health workers to consider the further development of county health units.

A conference of this kind suggests to my mind certain thoughts as indicating that there is really nothing new in government. It is the same thing over and over again. Now entirely aside from the question of cost, we have here the fundamental question that this State is constantly being confronted with, and that is that the day must come when we have to get away from the old-fashioned government that was set up in the Constitution and by our law when it took a whole day to get here from New York.

Health Commissioner Nicoll said something about sticking to the old idea, the old town, and the old village idea. Of course, throughout the length and breadth of this land, this State has the unenviable reputation of being absolutely reactionary. We don't try anything new. It is almost impossible to get anywhere with it. You have to have it debated for years; you have to make arguments about it, gather people together, make a great deal of publicity for it, no matter what it is. It took us nearly eighteen years to enact the Mothers' Pension Law. Nobody who is in the Legislature or



who is out of it would seriously suggest that we go back to the old method. We were ten years getting the Workmen's Compensation Law, and the very men who opposed it most vigorously were the ones who afterward declared that under no circumstances would they ever think of returning to the old condition.

We shall have to get away from the small unit in time. The State is growing away from it; it is getting too big. Distance has been annihilated by the automobile and by the speedy trains, by direct communication with the telephone, and now the radio. We are all neighbors together. I remember the city of Greater New York only thirty years ago before consolidation when I used to ride a bicycle down to Far Rockaway, and we rode along the country roads which are now all built up with tenement houses. The first scene of life we met after leaving Long Island City was the village of Jamaica, and then we went through the small villages of Nassau County, Woodmere, Cedarhurst, until we came to the village of Far Rockaway. Now, obviously, it would have been impossible to build that city up if all these small units were to remain. We are having that brought back to us by the condition in Westchester and Nassau counties where town and village government is breaking down, and that is the reason why you read so much in the paper about this constant scrap in Westchester County over a county charter. They want to elect a county president with a county comptroller and a county board of estimate and set up a county-wide police department and a county-wide fire department. The enormous growth of the county has rendered the small units of government useless. A policeman can be standing on one side of the road looking at an offender on the other side, and he is out of his jurisdiction because that is another village or another city.

It is pretty nearly the same thing with public health when

you think it out. Where would the city of New York be if it had five health departments, one for each borough? It is perfectly right to have five sewer departments and five departments of public works, or five departments of highways, or five departments of public buildings, because conditions may not be the same in the different boroughs. But certainly scarlet fever and measles are the same, no matter where they are. They cannot divide those by borough lines. You cannot have a Kings County brand of tuberculosis and a Bronx County brand. So that public health work in its very nature has got to be cared for in the largest unit you can put it in. If you look at the structure of the Department of Health of the State even as far back as the time of its organization, that must have been an important consideration in its make-up, because outside of the city of New York it takes full and complete control, notwithstanding the local agencies already set up.

I do not think that you can figure this question of public health on a dollars-and-cents basis. I think that is the most foolish, most short-sighted policy that the State could adopt. Preventable sickness and preventable disease are the cause of a great deal of crime, and look how dearly we pay for that in after years by our failure to make adequate appropriation to check at the right time. What happens when the sick person becomes a public charge? Think of the misery and privation and disease and sickness which follow from a failure on the part of the State to take the proper view and preventable steps at the critical period.

I do not believe this State spends anything near the money it should in the interest of public health, taking the State as a whole. We are putting more money every year into the operation of a canal for which nobody seems to have any use. We have spent an awful lot of time trying to induce men to build canal boats to operate on the canal. I am pretty

sure we are spending nearly as much for the conservation of wild life in the State and the preservation of the forests as we are directly for the promotion of the public health.

Certainly everybody is for efficient public-health administration. The only thing to do is to try to get it going right; try to get it properly understood. Our greatest problem here is to have our people understand what we are trying to do.

The old-fashioned health idea was that the fellow came around and stuck the red or yellow flag on the door and locked everybody in, and it was all done. That is not the State's idea of public health today. Our own department reflects it. It is the clinical laboratory service, the nursing service, the educational program for the prevention of disease, and the opportunity for better treatment.

When I was a boy, in the neighborhood in which I lived nobody thought of going to the dentist to get his teeth pulled. The barber pulled them. Nobody had the price to pay dentist's bills. Anybody with gold teeth lived on Murray Hill. Down in Cherry Hill, the only thing to do was to have them pulled out, and the barber was the man to do the work.

Right along there has been a drift. Sometimes it is hard to keep back the processes of government. They carry their own weight. There has been a drift towards county administration of certain health matters, but that drift has been, by lack of proper control, haphazard; yet the drift indicates that the time is not far away when the question of public health will have to be a county function if it is to be properly and scientifically and, let me say, economically managed, because the ten-dollar note for public health that is wasted is a double waste. We can lose ten dollars on the building of a road, but we cannot afford to lose it on public health, because you cannot make it up. When it goes, it is gone forever. So that economy will in time suggest to us that this larger unit be adopted.

I can speak for the State and for the temper of its government. If we found the different counties a little bit more active and a little bit more willing, it is entirely possible for the State to be a little more generous. But it is somewhat discouraging to the State to think that most of the counties do not want to take advantage of its subsidy for so important a function as the public health. Every county ought to be looking to get some part of it for itself, because it will pay not only in dollars and cents from the State, but it will pay in the return of public health and better citizenship and a more vigorous people in the county where the money is properly and carefully expended.



## HOUSING REFORM

### *Message on the Housing Emergency to the 1920 Extraordinary Session of the Legislature*

One of the most important problems submitted by the Governor to the Reconstruction Commission appointed by him soon after the election for his first term was housing. The Governor always recognized two phases of the problem, the permanent need for decent, wholesome, low-cost housing for the low-income groups, or about seventy per cent of the population, and the emergency phase due to the actual shortage of houses caused by the cessation of building during the World War.

The first statement here given is from his message to the special session of the Legislature called to deal with the rent emergency. The one which follows it deals with his suggestions for a permanent solution.

I have exercised the power vested in me by the Constitution to call the Legislature into extraordinary session because I am convinced that an emergency confronts the State, and because I feel that we cannot wait until the regular session to find remedies for its relief.

In the period of reconstruction many problems have been pressing for solution which are not ordinary in their nature but are the direct result of war conditions. None of them has so taxed the agencies of government as the question of proper housing facilities.

In January of 1919, I charged the Reconstruction Commission with the duty of making an exhaustive inquiry into this subject to the end that the legislative and executive branches of the government might be in a position to deal

with this problem, which even at that time promised to be acute. Your honorable bodies, believing that facts should be produced upon which to predicate remedial legislation, appointed a committee from both houses of the Legislature to investigate the subject. This committee reported at the last session of the Legislature and several legislative proposals arising from their report were enacted into law. It was admitted at the time that they were expedients intended to alleviate the situation temporarily. As we understand legislation, they were entirely regulatory. Two vital objects were overlooked; one, the encouragement of building construction, and second, the adoption of a State policy looking to the future study and development by the State of this all-important question of adequate housing facilities.

Experience of several months has revealed to us the weaknesses of the temporary expedients and has made more acute the necessity for encouragement of building operations, so far as it can be done by law, and the creation of State agencies for future use.

We, therefore, at this session, as I see it, have three distinct branches of the subject with which to deal.

First, the strengthening of the temporary statutes enacted at the recent session.

Our temporary laws of last spring have fallen far short of what was expected of them, and selfishness and greed on the part of not a few landlords have brought about an indescribable condition in the Municipal Courts in New York City. I am informed by the president of the Board of Justices of the Municipal Court that there are pending for October first more notices of dispossession proceedings than were filed during the whole year of 1919—approximately 100,000. The court rooms have been crowded beyond their capacity by tenants seeking relief. These figures of themselves cannot communicate the harassing uncertainty and the

misery caused by the constant repetition of these proceedings. It has been publicly stated by the Health Commissioner of the City of New York that this condition of uncertainty is alone a direct menace to the health and welfare of the community. The housing shortage leaves the citizen nowhere to turn. Families have been broken up and dispersed generally through the city or crowded and huddled into the homes of relatives until the health, welfare and morality of the community are seriously threatened.

It seems a very great pity that the decent, honest landlord should be obliged to come under a regulation clearly not intended for him but made necessary by the willful and deliberate profiteer, who would turn this great crisis in our State's history to his personal advantage. The people, to some degree at least, have managed to protect themselves from other forms of profiteering, but they are helpless to deal with this one, because a home every one must have. Bear in mind that no regulatory legislation, properly drafted, will have any disastrous effect upon an honest man. It has been my experience that only those who seek to live outside of the moral law have any great fear of State regulation. The State has a conscience and it will regulate fairly.

Inasmuch as regulation must be exercised through the agency of our courts, it is to existing statutes or the enactment of new ones supplementing them that we must turn our attention.

Landlords have been given the special privilege of summary proceedings in order to regain immediate possession of their premises. This privilege does not belong to any landlord as a matter of inherent right. Inasmuch as the evidence laid before us indicates that summary proceedings are being grievously abused, in a crisis of this kind the State does only its duty when it withdraws or modifies them.

There is an abundance of evidence that undesirability or

failure to pay rent is not in the majority of instances the basis of the application for the writ of summary removal, but, on the other hand, it is the operation of the profiteer who would remove the desirable and paying tenant in order to create a vacancy which may thereafter be offered to the highest bidder. As a result of this families have been shifted from place to place without rhyme or reason, and the unscrupulous and selfish have profited immensely by it. October first was to be the height of the harvest. The State should step in and use its power to disappoint them.

I believe the emergency to be such that the strong arm of the State must reach through its courts and protect the people for at least one year, until the crisis shall have passed or the situation is relieved. The courts should be empowered, where it is evident that the dispossession is requested for the purpose of unreasonable rent raising, to suspend the dispossession remedy for an adequate period. You might well hold that the courts shall have the power to suspend rent increases and place the burden of proof upon the landlord to show the necessity for the increase or any part of it. No honest man can suffer from such legislation. The court will undoubtedly give its approval to increases that can be justified.

Inasmuch as the personnel of your committee remains the same I have no doubt that they will be in a position to suggest to you other specific amendments to the existing so-called rent laws; and that they will strengthen them where experience has proved them to be weak.

The second phase of the question before us is how to stimulate building construction. Figures gathered from the most authentic sources indicate that the State is years behind its normal housing accommodations. Between June 1, 1919, and July 1, 1920, in the City of New York, 3,652 individual apartments designed for the same number of fam-



ilies were constructed, but as an offset to that new construction there were demolished or converted for non-residential uses 3,833 apartments, leaving 271 fewer homes at the end of that period, although the question has been constantly before the public for a year and a half.

The housing shortage is felt not alone in the City of New York, but all cities in the State are passing through the same difficulty. In New York City at least 50,000 homes are immediately necessary. It should therefore be your chief objective during the extraordinary session to encourage, so far as that can be done by law, the building of houses.

The commercial and economic supremacy of the State is threatened by this shortage. No community can expect to achieve an industrial growth if it is unable to house its working population properly. Labor shortage can be frequently attributed to improper housing accommodations. It is only human for a man to want to live where he can rear his family in decency and comfort. If some other State offers him that opportunity, it comes into sharp competition with our own State; good housing is therefore a necessity for the promotion of commerce and industry.

The question of stimulating building becomes a very practical one because of the fact that the cost of building operations has trebled since 1915. Building at this time is considered an unprofitable field, and money will not enter it, nor can it be forced into it by law; but we may be able to offer an inducement to capital to come back into the field, and building may be resumed in a natural way if the State can find some way to offset the increased costs.

A very vital element in the carrying cost of a newly constructed building is the taxation to which it is subject. While I do not, as a matter of policy, favor tax exemptions, the emergency is such at the present time that it might be well to consider the enactment of a law exempting from taxation

for a period of years, with proper restrictions, buildings used for dwelling purposes whose construction is undertaken within such a period as will assure an immediate increase in housing accommodations. I believe this will aid in putting new construction on a fair competitive basis with buildings erected before the war and will assist in creating a market for new buildings.

Much has been said about the exemption of mortgages from the provisions of the State income tax. The State's tax is very small and we can give no guarantee of Federal legislation along the same line. I, therefore, do not place much faith in this suggestion as offering any great remedy. However, your legislative committee is in possession of more facts on this subject than I can lay before you.

Loaning institutions apparently have not kept in step with the times and have spent their energy in securing investments bringing a larger return than real estate mortgages. For instance, our savings banks and mutual insurance companies are organized not for profit but as depositaries for the people's money, and it would be entirely in keeping with their purpose if their funds were made available to a greater extent to meet the people's needs, by investing a larger portion of them in bonds and mortgages.

In 1914 there was created by statute a State Land Bank having for its purpose assistance to building and loan associations. Inasmuch as the proceeds from the sale of the bonds of the Land Bank are used for the building of homes, the State should do everything that it possibly can to make the bonds a more desirable purchase. We have already exempted them from the provisions of the State income tax, but the abnormal yield at this time from other securities is such as to make them an undesirable investment. It might be well that the State use its own moneys or a portion thereof now in the various sinking funds of the State to purchase

these bonds. It might also be advisable to enable municipalities of the State to invest in such bonds.

These recommendations are made in the hope that the legislation which they suggest will bring voluntary capital into the building market. That, of course, remains to be seen. If the present condition be not thus relieved and the health of the community continues to be menaced, then we have a grave public emergency to meet, such as would confront us in a time of epidemic or of catastrophe. Clothed with the proper safeguards, the police power of the State should be extended to municipalities in order that they may be enabled either to build or lend their credit to the building of houses.

Undoubtedly, the State as well as the municipalities should be in a position to extend its credit either through the medium of the State Land Bank or a specially created agency.

There is one avenue of possible direct State aid in an emergency which might be applied at once. The State apparently owns considerable property that was either acquired by escheat or was bought in at tax sales. It might be well to direct the comptroller either to arrange favorable short term leases or dispose of the property, if it is to be used for housing at such prices as will encourage its development.

It has been called to my attention by the report of the Reconstruction Commission and by hearings held before the Joint Legislative Committee and by private citizens, that the high cost of building materials is artificially stimulated. No doubt, one very vital aid to construction would be the elimination of any combinations to increase the prices of building materials. Investigation of this situation by an agency of your own creation is, to my mind, highly desirable.

We come now to the third consideration—provision for a permanent housing policy.

The existing accommodations are far from the standards of adequacy that a normal family has the right to expect. I

was conscious that the State was facing a problem of housing, both from the fundamental point of view, and from that of the shortage in the supply, when I asked the Reconstruction Commission to study and to suggest a permanent policy for the State in this regard.

The evils of bad housing are only too apparent in New York City—but my study and experience here have shown me that an inadequate standard of housing exists in nearly every city and town in the State. The tenement house law has some measure of beneficent effect, but in the smaller communities investigation shows that housing is without even elementary supervision as to safety and sanitation.

Nor is the situation of such recent growth as is popularly supposed. Since we passed the tenement house law of twenty years ago, nothing constructive has been done. We rested with that achievement and every attempt to aid in developing a solution for other communities has met with failure.

Any attempts to amend the present tenement house law are likely to be viewed with alarm and suspicion, if they are aimed at detailed and specific sections of the law. It is, however, probable that the law can be made to fit present conditions if it is applied with greater elasticity. I would, therefore, recommend as an aid to the construction of multi-family homes that there be created for the tenement house department a board of appeals similar to or identical with the one at present functioning for the Building Department in the City of New York. If such a board is constituted, deviations from the letter of the law, which make possible new methods of construction, can be carefully considered by such a board and the law be less hampering in its effect.

Building houses for some groups in the population has become an unprofitable business. Hence, these groups have for a generation lived in the left-over housing or in the cheapest and most poorly planned type of home that a grudg-



ing and unrealizing community would provide. As a result of the present emergency, a still larger portion of our population is being forced back into houses of a standard below that which we have accepted as decent American homes.

Except for the report of the Reconstruction Commission and the findings of your own committee, we have been aided by no State agency in the consideration of this very important problem. In the enactment of labor laws, we are guided by the Industrial Commission. In the enactment of health measures, by the State Health Department. In matters affecting the conservation of our natural resources, by the Conservation Commission. The Banking Department, the Insurance Department, and other State agencies all deal with special subjects that need executive or legislative action. But in housing, dealing with the elementary need of shelter and establishing homes, there is no State or local agency to aid the legislative and executive branches of the government either in meeting an emergency or, what is more important, in helping to establish a permanent housing policy for the State. Such a policy does not necessarily mean the building of houses by the State, but it does mean the establishment of housing standards and of local development that should underlie any future growth of the cities of this State.

Granted that your honorable bodies will enact measures to meet the emergency, it is important that you recognize the challenge which these insufferable conditions raise, to establish agencies for providing an enlightened and constantly developing housing policy for the future.

To this end I recommend a law which will create in each community having a population of over ten thousand a local housing board, which shall be charged with the duty of finding a solution for the local housing situation. These local boards should be required to prepare within a period to be determined by the local authorities a plan for the future

development of the city and should consider local housing ordinances. A State agency should be created and the local boards should be required to report to it at stated intervals so that there may be available at all times a body of information applicable to this subject.

The State agency, on the other hand, should first of all be directed to report to the next Legislature on a method for the development of a system of State credits for housing purposes. Through the State agency information should be made available to local communities that will aid them in their housing program.

These agencies, both State and local, should be unpaid, but so far as the State agency is concerned, adequate appropriation for its expenses should be made.

This is the time for action. We are confronted with a real problem of reconstruction. Shall we remain in the dark ages of inadequate and un-American housing, endangering the health and morals of future generations of our citizenship? Or shall we go forward with the times, and enter the new era of our democracy with an enlightened interest in the fundamental needs of our cities and our citizenship for well-planned communities that serve the industrial, commercial and social needs of the people, and homes that make for a stabilized, self-respecting, wholesome family life?

If this is accomplished, the sufferings caused by the housing crisis will not be without their compensation. The permanent fruits of this emergency should be written on the record which this State has made for progressive laws affecting human needs. It takes a serious emergency to bring a realization of deficiencies. The opportunity is yours to remedy them.

*A Permanent State Housing Policy*

Governor Smith's long-ranged views of the housing problem are set forth in passages extracted from his 1926 message to the Legislature.

This whole question has been investigated, and re-investigated, and investigated all over again until there are in existence today official records on file in the Capitol at Albany sufficiently large to fill volumes of books. One outstanding fact still remains as a result of all the investigations and that fact is that the construction of certain types of homes for wage earners of small income is unprofitable under the existing system. All of the investigations disclose the undisputed fact that the building of homes has in the past been looked upon as an enterprise conducted like any other business in which the element of speculative profit has been the compelling force. Until this situation is changed it will be impossible to rebuild the tenement areas which continue throughout the years to be a menace to the health and the morals of the country.

The report of the State Commission on Housing which I transmit herewith, furnishes a list of old-law tenements in New York City still standing and still inhabited which were condemned as foul, unsanitary and unfit to live in by the Tenement House Committee of 1885.

Legislative committees, private agencies, the Reconstruction Commission, the State Housing Commission, who have studied the subject, are unanimous in the belief that the great obstacles to private capital for this class of housing have been the cost of borrowing money and the present slow and expensive process of acquiring sufficient land to conduct profitable building operations on a large scale. They are also unanimous in the belief that if the apartments in such build-

ings are to be offered at a rental within the means of the low scale of wage earners, they must be constructed on a large scale.

After serious thought, study, and investigation by the State Housing Commission and other interested organizations, it seems to be the opinion that the key to a solution of the situation is the creation of a State Housing Bank similar to the Federal Land Bank organized for the relief of farmers, clothed with the power of condemnation for suitable projects, to the end that they may at a low rate of interest loan money to limited dividend corporations organized for the purpose of carrying on these operations at a reasonable return on the money invested.

Accordingly there will be before you a bill to accomplish these purposes. While the limited-dividend companies which are to construct and operate the buildings yield to the sovereign power of the State for their regulation as to cost and rentals, nothing in the plan involves the extension of either State or municipal credit, and no amendment to the Constitution is required as all the objects and purposes sought to be accomplished can be achieved by amendment to statute law.

I strongly urge your Honorable Bodies to progress this legislation. Already too much time has been wasted in investigation. Nothing can possibly be disclosed that is not already a matter of record either in the committee of your own creation known as the Lockwood Committee or in the reports of the investigations by the Reconstruction Commission and later by a body of your own creation known as the State Housing Commission. Every day's delay prolongs the condition now existing known to everybody and pressing hard for solution. The State will be compelled to pay in impaired health and vitality of a large part of her people for every week of delay. That there is a wide-spread demand



for immediate relief there can be no doubt, and the people of the State will have just cause to be uneasy about this whole situation. When all the facts are known and a practical, sane, sensible, and business solution is suggested, should there grow into the whole situation any further and unnecessary delay?

The record disclosed early in this message clearly indicates that the State has temporized with this question to the last degree. Nothing of a constructive nature looking to a solution of the problem, aside from the creation of the Bureau of Housing in 1923, has been actually accomplished since I first called it to the attention of the Legislature in January, 1919. The temporary expedients in the way of amendments to the Code of Civil Procedure commonly referred to as rent laws are nothing more or less than stimulants given to the patient to carry it along. Attempt to stamp out the evil and get at the root of the trouble has been sufficiently long delayed. I therefore urge upon you, since, also, you must admit the facts, that you seek this remedy or suggest a better one. I have no fear of the ultimate success of this plan. I am convinced that citizens of large means will be satisfied with limited return upon their investment if they can feel that they are making substantial contribution to the health, comfort, and morals of a great community.

## PARKS AND PLAYGROUNDS FOR THE PEOPLE

In the election of 1924, the people approved by a majority of over one million a bond issue advocated by Governor Smith of fifteen million dollars for the purchase of desirable park lands to be included in a State-wide system of parks. The legislative session of 1924 dealt with the procedure and methods to be employed in the acquiring and purchase of these park sites. They passed the Thayer Bill, which the Governor vetoed because in his judgment it proposed a political method of acquiring and purchasing the necessary properties. The issue of politics versus sound business methods in administering the fifteen-million-dollar bond money was outlined by the Governor in a radio address to the people on Thursday, June 11, 1925, preliminary to calling a special session of Legislature to consider the subject anew. This speech was followed by a long appeal made at the opening of the special session of the Legislature, June 22, when he addressed a joint meeting of the Senate and Assembly. This speech was also broadcast.

Following the conference between the legislative leaders and the committee from the Park Council that met with me in the Executive Chamber a short time ago to discuss the park program, I have remained silent and allowed the discussion to proceed between the park officials directly concerned and the legislative leaders. It seems to me that the time has arrived when I should speak out in no uncertain language to the people of the State and lay this subject before them in detail, so that they may know exactly where the blame lies or would lie and be prepared to remedy it as far as they can by popular action.

In order to justify their unreasonable attitude the Republican legislative leaders have misrepresented the real issue. Before I go into an extended explanation of all the circumstances and happenings let me first define clearly the issue between the Park Council and the Republican leaders of the Legislature. There is no difference of opinion between them as to the total amount to be appropriated or as to the disposition of this money between land purchase and park improvement. For all of this the Legislature relied entirely upon the Park Council, and in all of the controversy the Legislature has not questioned the determination of the Park Council as to the amount and disposition of the money.

They are at variance on three major points, as shown in the so-called Thayer Bill vetoed by me and the proposal of the Park Council rejected by the leaders. The first one is as to the power of the attorney-general. The Park Council contends that the rules regarding the acceptance of title to lands purchased by the State must be changed and the work expedited so that owners are paid promptly. The council says the comptroller in paying for such lands shall rely upon the approval of title by the Regional Park Commissions under general rules and supervision of the attorney-general.

The legislative leaders on the other hand contend that the attorney-general shall do all the work of searching titles and for this purpose shall use not only his regular force of examiners but shall have the power at will to draw out funds from the park bond issue in order to employ additional attorneys, experts, and searchers without the consent and approval of the park authorities.

The history of the past clearly indicates that if the Legislature has its way with regard to this matter the State in all probability will not have title to the park lands during the lifetime of any of the present commissioners. There are

still pending today in the attorney-general's office numerous title proceedings, some of which have been there as long as three and four years, in the course of which the State cannot take over the land and the owner is not paid, thus holding up the park program, giving the State a bad name, and raising prices of land everywhere.

Property acquired for park purposes from the comparatively small appropriations made in 1923 and 1924, that is, since the unified State park program was started, as well as from the forest-preserve bond issue of 1916, has been tied up for long periods, and for a great deal of it the State has not yet acquired title. For years a procedure has been followed in the attorney-general's office so complicated and wound about with red tape that the search of titles often costs more than the land itself. Numerous instances of this kind have been called to my attention by the Park Council. The council has stated that a great part of the time and funds of the park commissions was used up by this senseless and complicated procedure.

After the park authorities called this to my attention, I asked for a conference between them, the comptroller, attorney-general, and myself. Since then there has been some speeding up in the attorney-general's office of the search and passing of titles. With this delay growing out of comparatively small appropriations, what is to be expected if the attorney-general's procedure is to continue when sums as large as three or four million dollars in one calendar year are made available for park-land purchases?

This matter, however, is not difficult of adjustment. The attorney-general himself, realizing that the complaint of the park commissioners was founded on solid ground, has already undertaken to liberalize the rules and regulations of his office in an effort to be of assistance rather than a hindrance to the acquisition of property for State parks.



The next point of difference, however, is the most vital one. The Park Council contends that the \$15,000,000 bond issue referendum passed by the Legislature of 1924 and approved by the people by over a million majority clearly intended that appropriations for the several park regions should be expended under the direction of the Regional Park Commissioners, excepting the forest preserve, in which it was specifically provided in the referendum that the Land Board should approve purchases by the Conservation Commissioner.

The Park Council also contends that the park authorities were given the power by the bond-issue referendum to enter and appropriate land and to condemn it under the condemnation law when efforts to purchase by agreement failed. The only consent properly required for the exercise of this power of eminent domain is the consent of the Governor in the case of entry and appropriation as provided for in the conservation law. The park authorities claim that whatever general supervision, review, or control of park policies of the several regional park commissions is required is clearly within the power and duties of the State Council of Parks as defined by the conservation law, and that if any additional supervision is required this can easily be provided by adding to the powers of the council under this general law.

The legislative leaders, however, contend that every single purchase of property for park or parkway purposes must first be approved by the Land Board. Likewise their approval should be required for entry and appropriation or condemnation of property. Nobody either in or out of the Legislature has so far given any good reason why the Park Council should give way entirely to the Land Board in the all-important function of acquiring property, nor has any one shown where the Land Board gets the knowledge, the

competence, and the time to say how every patch of land or right of way shall be acquired in every part of the State. Let us compare both bodies.

The Park Council is made up of the heads of the unpaid regional park commissions with the conservation commissioner, the president of the American Scenic and Historic Preservation Society and the director of the State Museum.

They are all business and professional men serving the State without pay, appointed because of their personal and individual interest in the progress of the State's park program, many of them reappointed several times and long in the service of the State. Many of the members of the regional park commissions have not only given their time gratis to the State, but have contributed large sums of money from their personal fortunes for the purchase of lands which they have presented to the State as a gift or have helped to pay current expenses out of their own pockets; and it is proposed that they be subordinated entirely to the Land Board which, without doing injustice to the individuals, we must admit is a strictly political body. Its make-up is as follows: the lieutenant governor, the State engineer, the speaker of the Assembly, the State treasurer, the secretary of State, the comptroller, and the attorney-general.

Not one of these elective officers was chosen by the people to administer parks. Not one has been in office more than six months. The Land Board has outlived its usefulness. The constitutional amendment reorganizing the State government abolishes it, takes it out of the Constitution, does away with three of the State officers now on it, and specifically provides that the comptroller may not sit on any administrative boards. The very Legislature which passed this amendment for the second time, now proposes to give new powers to the Land Board.

There has been a great deal of misinformation spread

about as to what will become of the Land Board should the people adopt the pending amendment to the Constitution providing for the reorganization of the government. Some of the people who have expressed an opinion on it can be excused for their mistakes because they are not identified with the government at Albany, but when members of the Legislature and the attorney-general say that the Land Board will be in existence as an independent agency after the adoption of the constitutional amendment, it is clear that they never read the amendment. Not only does the Land Board go out of existence if the amendment is adopted, but the Legislature is prevented by the terms of the amendment from creating any additional boards or commissions except those of a temporary character.

The Land Board has no facilities for the work that is here proposed to be put upon it. It maintains no adequate office staff. The appropriation bill this year gives it the service of a clerk from the office of the secretary of State and two land appraisers. These are strictly political positions in the exempt class and are held by two men who have been appointed since the first of last January. The reason given by the legislative leaders for desiring to leave control with the Land Board is that they feel that the large expenditure of money should be supervised.

Just here let me point out to the people of the State that this comprehensive park program was brought to the attention of the people of the State in 1923 by a committee of the New York State Association known as the Committee on State Park Plan. The committee was composed of enthusiasts about parks and conservation and included many of the State Park Commissioners. The committee raised its own funds, made its own studies, and paid for its reports. The park-bond-issue proposal originated with this committee. The plan of this committee was endorsed by practically every

newspaper and every organization in the State. I thought so highly of it that I recommended an immediate appropriation of a million dollars to get the program under way pending the passage of the bond-issue bill and its approval by the people. In 1923 this sum was appropriated for the purchase of park lands, and again in 1924 about another million was appropriated for the same purpose, all of this to avoid loss of time and to tide us over until the bond money was available.

In these two years no suggestion whatever was made that these land purchases be subjected to the approval of the Land Board. In these two years the park authorities started the program, and no one ever mentioned the Land Board in connection with it. The progress made in this period through the enthusiasm of the Park Commissioners and of the Committee on State Park Plan impressed the public so much that when the bond issue came before them last Fall they approved it by the overwhelming majority of one million votes.

Lands for all purposes aside from additions to the Adirondack Preserve have in the past been purchased pursuant to action by department heads, boards, and commissions without any reference whatever to the Land Board. The Armory Commission, of which I am chairman, purchased a square block in South Brooklyn for a new arsenal. No suggestion was made that the Land Board approve of that purchase. We have bought great sites for State Hospitals also without the Land Board. Thousands of acres of land have been acquired by the Palisades Interstate Park Commission at Bear Mountain. No suggestion was ever made that the Land Board have anything to say about these purchases. Innumerable sites for State institutions, property required for additions to existing public buildings throughout the State, have been purchased by various boards and commissions



without any help from the Land Board. It is true that the Land Board has passed on forest-preserve purchases but its approval has been purely perfunctory in every case. They have taken the word of the conservation commissioner. They don't visit the lands. They don't know where they are.

Where, therefore, did the suggestion come from that this board should be injected into the park program, and how much is there to the contention of the legislative leaders that they desire simply a supervision of the money? Senator Knight, the leader of the Senate, let the cat out of the bag in a statement that he made the other night in which he said: "A strong feeling developed in the Legislature that in view of the large amount of money to be expended and the very wide powers of the park commissions, it was very desirable that some central body have supervisory authority and act as a court of appeals to which any citizen with a grievance can present his case." You can disregard all that he said about the central authority because we have that in the Park Council. The real meat in the coconut lies in the words "a court of appeals to which any citizen can present his grievance." What does that mean? It means that there are people in this State who are opposed to the park program because they do not desire public parks or parkways too close to their private estates, golf clubs, and fox-hunting and polo fields, and instead of a supervisory control, as suggested, the Republican legislative leaders desire some political control easily subject to influence and manipulation, and that they expect to get through the medium of the Land Board.

I propose in this statement to be frank and open with the people of the State, to tell them the real facts, to call a spade a spade, and to let those who are responsible for the present condition make what answer they can in defense of their action. In pursuance of this thought let me state that this

controversy grows largely out of the attempt on the part of the State to acquire as a park one piece of property on Long Island known as the Taylor estate and the efforts of the commission to lay out a boulevard through property that has a scenic value and gives to the people a chance to view Long Island on the north shore at its very best.

Let me give the history of the Taylor estate. It is a piece of water-front property near the village of East Islip forty miles from the New York City line. For seventeen years nobody has lived on the property but the caretaker. It has been neglected to a point where it resembles a part of the forest preserve. The Long Island Park Commission deemed it to be an ideal spot for a State park, first because of its enormous acreage, second because of its miles of shore front, and third because it is directly opposite a large piece of beach property across the bay and fronting on the ocean, now in the possession of the State and used for a State park. The Taylor place lends itself because of its natural scenic beauty to wonderful State park property and is so situated that it can be used as a game preserve.

A great deal of false propaganda has been spread about as to how the State in the first instance came into possession of it. The real truth is, it was offered to the Long Island Commission by a real estate broker and had been on the market for years. The Long Island Park Commission agreed with the owners to purchase it at a price of \$250,000, first renting some of the buildings and taking an option on the purchase which was to be made after the park bond was approved by the people. As soon as it became known that the State intended to acquire it for a park, several of the wealthy residents and golf-club members of this region started an agitation, and some local lawyer and real-estate man made a speech about the hordes of people from New York that would come down tramping over the country and

leaving empty sardine and cracker boxes behind them, giving thereby the impression that a public park to serve all the people was not desirable in that section of Long Island. Immediately thereafter pressure was exerted by a small group of wealthy men upon the owners in an effort to persuade them not to sell to the State, but rather to sell to the small wealthy group.

The pressure became so great that the owners decided to break their agreement with the State and sell to their friends. Every kind of political, social, and personal influence was brought to bear on the park officials to force them to give up their plans for this park. The matter was brought officially to me by the Long Island Park Commission when that commission determined that the bargain originally made be carried through by entry and appropriation, which proceeding required the Governor's signature. I gave a hearing on the matter in the city of New York. I heard the Long Island Park Commission and I heard the men who were opposed to the purchase of the property by the State, and after a long argument it was summed up in a few words. The Park Commission declared that they desired this large acreage to find a breathing spot on the south shore of Long Island for the millions of people living inland on Long Island and throughout the greater city and metropolitan section, having particularly in mind the development of the property for the future.

The Park Commission pointed out to me the great difficulty in acquiring water-front property on Long Island for public parks, so much of it being held by private individuals for their own enjoyment and amusement. The Park Commission pointed out to me that for fifty miles from the city line on the north shore it is practically impossible for the general public to get at the water, and that conditions were getting to be almost as bad on the south shore. They

made apparent to my way of thinking the desirability of this piece of property as a location for a State Park. Their opponents, a very few wealthy men, on the other hand, reduced their entire argument against the State to the bare statement that they desired to get control of the property for themselves in order that they might develop it to help their golf club and bring in about fifty millionaires, who would have a kind of exclusive community there with the golf club as a center of attraction.

As between the few and the many to be benefited, I cast my lot with the many, and I signed the papers necessary to acquire the property by entry and appropriation. Immediately thereafter high-priced legal talent was brought in to defeat the purposes of the State. When this small group of Long Island people desired that great playground for themselves and wanted to keep the people from it, particularly off the water-front piece that was bought by the commission, they made up their mind that they would, as far as it was humanly possible to do it, paralyze the arm not only of the Long Island Commission but of the Governor and the Legislature and in fact of the entire State. This group was very busy during the last legislative session. It was from them and from their lawyers and hired men that the suggestion came that there be some political control either through the local boards of supervisors or through the Land Board. That is what Senator Knight means by a court of appeals before which the people may lay their grievances. The group is confidently of the opinion that before the Land Board the golf club would probably win.

Our experience at East Islip we expect will be repeated when it comes to acquiring the land for the northern parkway. It must be said of a great many of our citizens who have large estates that they have coöperated to the last degree with the State. In some instances they have given or



promised rights of way over their property, but we must reckon with the few selfish ones, men of the type of one particular citizen who admitted that the proposed parkway did not touch his land, but nevertheless said that he did not even want to see it. We cannot please a man like that nor his neighbor who lives eight or ten miles from the New York City border and opposes the parkway because it may interfere with the fox-hunting.

There is a greater question here than park councils, attorney-generals or land boards. There is a question of what will ultimately become of the fifteen million dollars authorized by the people. Will they buy choice park spots and locate parkways where there is fine air and scenic beauty, or will money, power, and influence compel the State to buy for the people that which nobody else wants? The people are either going to get these parks and parkways through the properly organized commissions that have been granted this power by law, or this program will be given into the hands of the very men who now desire to weaken it in the interest of the few, and to bring it to a standstill by manipulation, by influence, and by wearing out the park commissioners with courts of appeal, delays, and red tape.

It is a curious fact that the Legislature of 1924 with practically the same personnel that bedeviled the park program at the last legislative session established the State Council of Parks at the previous session, and gave it the function of supervising and coördinating the program.

Ever since its organization the Park Council has been steadily working on its comprehensive program, laying out plans, bringing the park commissions together, preparing legislation and budgets, and acting as the supervisory agency for this branch of the State's activities. Why, then, does the demand suddenly arise to have all of its powers subordinated to the Land Board, whose officers have been function-

ing only five months, which has met only five times, and which knows and cares nothing about the park program?

I have supreme confidence in the good sense, the wisdom, and the judgment of the people of this State. I think they can see through this game as clearly as I do. For that reason I am laying it before them in understandable, plain everyday language, and I am leaving it to them to serve notice on their servants and representatives in the Legislature just exactly what their wishes are with regard to this whole park program. We can have a comprehensive, well-thought-out, properly located system of parks and parkways under the direction of unselfish, experienced, and interested citizens who have freely given their time and their money for the promotion of these projects, or we can have a political park system that will be laid out with respect to the wishes of men of influence and money who seek by the method of appropriating the money to get a partisan or selfish control.

I have allowed the controversy up to this time to be between the Park Council and the Legislature. The Park Council has not been unreasonable, but the legislative leaders have been. The Park Council does not hold to any particular form of bill. It holds only to a principle. The legislative leaders hold to a bill which has gone through so many amendments and been so loaded down with jokers that even the Senator who originally introduced it at the instance of the park authorities cannot explain it any more. These leaders boastfully proclaim that if they are called back in extraordinary session that they will send me the same bill that I have already rejected with the same jokers and discriminations.

The Park Council, I am ready to believe, would be entirely satisfied if the council were made a bureau in the office of the Conservation Commission and more closely identified with the other work of this department, as it eventually must

be when the State departments are consolidated. The Park Council is ready to accept any proposal that will expedite the business of the various regional commissions and give force and effect to the referendum in the terms and under the conditions the people themselves voted for when they accepted the referendum with the flattering majority of over a million, but under no circumstances can they in the interest of the park program allow their body to be completely subordinated to the political control of the Land Board, made up of men without any knowledge whatever of the subject, and surely not selected by the people last fall with any notion that it was to be the court of appeals over the Park Council and the Park Commissioners.

The cure for the evils of democracy is more democracy. Let us battle it out right in the shadow of the Capitol itself; let us have a decision; and let us not permit the impression to go abroad in this State that wealth and the power that wealth commands can palsy the arm of the State and stall the machinery of government in the performance of a function that has so much to do now and in the future with the health, the happiness, and the comfort of our ten million people and of the millions more who will follow them.





PART IV  
PROTECTING LIBERTIES



## RELIGIOUS LIBERTIES

### *The Ku Klux Klan*<sup>1</sup>

After my speech last night in Ithaca was concluded a fiery cross was seen burning on what is called West Hill. In the very center of education and culture, in a territory that harbors a great university of the State, the spirit of bigotry and intolerance appeared upon the horizon.

Several weeks ago I read in the newspaper of a Klan christening, and the details showed that the baby was held against the sheeted breast of a Klansman. A minister of the gospel arrayed in the regalia of the Klan pronounced the ritual. Here was the disciple of the Christ of love and peace breathing into the heart and soul of an infant child the spirit of hate and war, dedicating the infant to a hatred of millions of its fellow men, and doing it in the name of Christ.

To my mind the whole movement is out of line with the spirit of our free institutions. It is so out of tune with the history and purposes of this country, it is so abhorrent to intelligent thinking Americans of all denominations, that it must in time fall to the ground of its own weight.

The Catholics of the country can stand it. The Jews can stand it. Our citizens born under foreign skies can stand it. But the United States of America cannot stand it. Nor can they countenance a policy of silence in regard to it on the part of the man who has a special commission to speak for the heart and conscience of the American people.

<sup>1</sup> From a speech delivered in Syracuse, 1924, during the gubernatorial campaign.

*Catholic and Patriot*

The April, 1927, issue of the *Atlantic Monthly* contained "An Open Letter to the Honorable Alfred E. Smith," by Charles C. Marshall, "an experienced attorney of New York City who has throughout his active life been closely associated with the Anglican Church and has made himself an authority upon canon law."

The letter expressed, in a spirit of fairness and with much display of erudition, what many non-Catholics were feeling "as to certain conceptions which your fellow citizens attribute to you as a loyal and conscientious Roman Catholic, which in their minds are irreconcilable with that Constitution which as President you must support and defend, and with the principles of civil and religious liberty on which American institutions are based."

The letter then develops these conceptions, basing its contentions upon selections from Papal Encyclicals and Catholic literature. The first principle is the superiority of the ecclesiastical over the civil power—the latter being tolerated by the Catholic Church, but not vested by it with coördinated sovereign right. Mr. Marshall asks whether, in case of a conflict between the two jurisdictions, Governor Smith would accept the teaching of the Roman Catholic Church, that the jurisdiction of the Church shall prevail, or the teaching of the Supreme Court of the United States "that, in matters of religious practices which in the opinion of the State are inconsistent with its peace and safety, the jurisdiction of the State shall prevail"; and questions, "if you accept both teachings, how you will reconcile them."

The letter then takes up concrete problems involving the alleged conflicts in the Catholic institutions of the parochial school, the marriage sacrament, and the contemporaneous Mexican situation.

In the May, 1927, number of the *Atlantic Monthly* there appeared the following letter under the heading "Catholic and Patriot: Governor Smith Replies":



Charles C. Marshall, Esq.,  
Dear Sir:

In your open letter to me in the April *Atlantic Monthly* you "impute" to American Catholics views which, if held by them, would leave open to question the loyalty and devotion to this country and its Constitution of more than twenty million American Catholic citizens. I am grateful to you for defining this issue in the open and for your courteous expression of the satisfaction it will bring to my fellow citizens for me to give "a disclaimer of the convictions" thus imputed. Without mental reservation I can and do make that disclaimer. These convictions are held neither by me nor by any other American Catholic, as far as I know. Before answering the argument of your letter, however, I must dispose of one of its implications. You put your questions to me in connection with my candidacy for the office of President of the United States. My attitude with respect to that candidacy was fully stated in my last inaugural address as Governor when, on January 1, 1927, I said:

I have no idea what the future has in store for me. Every one else in the United States has some notion about it except myself. No man could stand before this intelligent gathering and say that he was not receptive to the greatest position the world has to give any one. But I can say this, that I will do nothing to achieve it except to give to the people of the State the kind and character of service that will make me deserve it.

I should be a poor American and a poor Catholic alike if I injected religious discussion into a political campaign. Therefore I would ask you to accept this answer from me not as a candidate for any public office but as an American citizen, honored with high elective office, meeting a challenge to his patriotism and his intellectual integrity. Moreover, I call your attention to the fact that I am only a layman. The

*Atlantic Monthly* describes you as "an experienced attorney" who "has made himself an authority upon canon law." I am neither a lawyer nor a theologian. What knowledge of law I have was gained in the course of my long experience in the Legislature and as Chief Executive of New York State. I had no such opportunity to study theology.

My first thought was to answer you with just the faith that is in me. But I knew instinctively that your conclusions could be logically proved false. It seemed right, therefore, to take counsel with some one schooled in the Church law, from whom I learned whatever is hereafter set forth in definite answer to the theological questions you raise. I selected one whose patriotism neither you nor any other man will question. He wears upon his breast the Distinguished Service Cross of our country, its Distinguished Service Medal, the Ribbon of the Legion of Honor, and the Croix de Guerre with Palm of the French Republic. He was the Catholic Chaplain of the almost wholly Catholic 165th Regiment in the World War—Father Francis P. Duffy, now in the military service of my own State.

Taking your letter as a whole and reducing it to commonplace English, you imply that there is conflict between religious loyalty to the Catholic faith and patriotic loyalty to the United States. Everything that has actually happened to me during my long public career leads me to know that no such thing as that is true. I have taken an oath of office in this State nineteen times. Each time I swore to defend and maintain the Constitution of the United States. All of this represents a period of public service in elective office almost continuous since 1903. I have never known any conflict between my official duties and my religious belief. No such conflict could exist. Certainly the people of this State recognize no such conflict. They have testified to my devotion to public duty by electing me to the highest office within

their gift four times. You yourself do me the honor, in addressing me, to refer to "your fidelity to the morality you have advocated in public and private life and to the religion you have revered; your great record of public trusts successfully and honestly discharged." During the years I have discharged these trusts I have been a communicant of the Roman Catholic Church. If there were conflict, I, of all men, could not have escaped it, because I have not been a silent man, but a battler for social and political reform. These battles would in their very nature disclose this conflict if there were any.

I regard public education as one of the foremost functions of government and I have supported to the last degree the State Department of Education in every effort to promote our public-school system. The largest single item of increased appropriations under my administration appears in the educational group for the support of common schools. Since 1919, when I first became Governor, this item has grown from \$9,000,000 to \$82,500,000. My aim—and I may say I have succeeded in achieving it—has been legislation for child welfare, the protection of working men, women, and children, the modernization of the State's institutions for the care of helpless or unfortunate wards, the preservation of freedom of speech and opinion against the attack of war-time hysteria, and the complete reorganization of the structure of the government of the State.

I did not struggle for these things for any single element, but in the interest of all of the eleven million people who make up the State. In all of this work I had the support of churches of all denominations. I probably know as many ecclesiastics of my Church as any other layman. During my long and active public career I never received from any of them anything except coöperation and encouragement in the full and complete discharge of my duty to the State. More-

over, I am unable to understand how anything that I was taught to believe as a Catholic could possibly be in conflict with what is good citizenship. The essence of my faith is built upon the Commandments of God. The law of the land is built upon the Commandments of God. There can be no conflict between them.

Instead of quarreling among ourselves over dogmatic principles, it would be infinitely better if we joined together in inculcating obedience to these Commandments in the hearts and minds of the youth of the country as the surest and best road to happiness on this earth and to peace in the world to come. This is the common ideal of all religions. What we need is more religion for our young people, not less; and the way to get more religion is to stop the bickering among our sects which can only have for its effect the creation of doubt in the minds of our youth as to whether or not it is necessary to pay attention to religion at all.

Then I know your imputations are false when I recall the long list of other public servants of my faith who have loyally served the State. You as a lawyer will probably agree that the office of Chief Justice of the United States is second not even to that of the President in its influence on the national development and policy. That court by its interpretation of the Federal Constitution is a check not only upon the President himself but upon Congress as well. During one fourth of its history it has been presided over by two Catholics, Roger Brooke Taney and Edward Douglass White. No one has suggested that the official conduct of either of these men was affected by any unwarranted religious influence or that religion played with them any part other than it should play in the life of every God-fearing man.

And I know your imputations are false when I recall the tens of thousands of young Catholics who have risked and sacrificed their lives in defense of our country. These funda-



mentals of life could not be true unless your imputations were false.

But, wishing to meet you on your own ground, I address myself to your definite questions, against which I have thus far made only general statements. I must first call attention to the fact that you often divorce sentences from their context in such a way as to give them something other than their real meaning. I will specify. You refer to the Apostolic Letter of Pope Leo XIII as "declaring to the world that the orders of the Church of England were void, her priests not priests," and so forth. You say that this was the "strange fruit" of the toleration of England to the Catholics. You imply that the Pope gratuitously issued an affront to the Anglican Church. In fact, this Apostolic Letter was an answer to a request made at the instance of priests of the Anglican Church for recognition by the Roman Catholic Church of the validity of their priestly orders. The request was based on the ground that they had been ordained in succession from the Roman Catholic priests who became the first priests of the Anglican Church. The Apostolic Letter was a mere adverse answer to this request, ruling that Anglican priests were not Roman Catholic priests, and was in no sense the gratuitous insult which you suggest it to be. It was not directed against England or citizens of that Empire.

Again, you quote from the *Catholic Encyclopedia* that my Church "regards dogmatic intolerance, not alone as her incontestable right, but as her sacred duty." And you say that these words show that Catholics are taught to be politically, socially, and intellectually intolerant of all other people. If you had read the whole of that article in the *Catholic Encyclopedia*, you would know that the real meaning of these words is that for Catholics alone the Church recognizes no deviation from complete acceptance of its dogma. These

words are used in a chapter dealing with that subject only. The very same article in another chapter dealing with toleration toward non-Catholics contains these words: "The intolerant man is avoided as much as possible by every high-minded person. . . . The man who is tolerant in every emergency is alone lovable." The phrase "dogmatic intolerance" does not mean that Catholics are to be dogmatically intolerant of other people, but merely that inside the Catholic Church they are to be intolerant of any variance from the dogma of the Church.

Similar criticism can be made of many of your quotations. But, beyond this, by what right do you ask me to assume responsibility for every statement that may be made in any encyclical letter? As you will find in the *Catholic Encyclopedia* (Vol. V, p. 414), these encyclicals are not articles of our faith. The Syllabus of Pope Pius IX, which you quote on the possible conflict between Church and State, is declared by Cardinal Newman to have "no dogmatic force." You seem to think that Catholics must be all alike in mind and in heart, as though they had been poured into and taken out of the same mold. You have no more right to ask me to defend as part of my faith every statement coming from a prelate than I should have to ask you to accept as an article of your religious faith every statement of an Episcopal bishop, or of your political faith every statement of a President of the United States. So little are these matters of the essence of my faith that I, a devout Catholic since childhood, never heard of them until I read your letter. Nor can you quote from the canons of our faith a syllable that would make us less good citizens than non-Catholics. In fact and in truth, I have been taught the spirit of tolerance, and when you, Mr. Marshall, as a Protestant Episcopalian, join with me in saying the Lord's Prayer, we both pray, not to "My Father," but to "Our Father."

But I go further to demonstrate that the true construction of your quotations by the leaders of Catholic thought is diametrically the opposite of what you suggest it to be.

# I

Your first proposition is that Catholics believe that other religions should, in the United States, be tolerated only as a matter of favor and that there should be an established church. You may find some dream of an ideal of a Catholic State, having no relation whatever to actuality, somewhere described. But, voicing the best Catholic thought on this subject, Dr. John A. Ryan, Professor of Moral Theology at the Catholic University of America, writes in *The State and the Church* of the encyclical of Pope Leo XIII, quoted by you:

In practice, however, the foregoing propositions have full application only to the completely Catholic State. . . . The propositions of Pope Pius IX condemning the toleration of non-Catholic sects do not now, says Father Pohle, "apply even to Spain or the South American republics, to say nothing of countries possessing a greatly mixed population." He lays down the following general rule: "When several religions have firmly established themselves and taken root in the same territory, nothing else remains for the State than to exercise tolerance towards them all, or, as conditions exist today, to make complete religious liberty for individual and religious bodies a principle of government."

That is good Americanism and good Catholicism. And Father Pohle, one of the great writers of the Catholic Church, says further:

If religious freedom has been accepted and sworn to as a fundamental law in a constitution, the obligation to show this tolerance is binding in conscience.

The American prelates of our Church stoutly defend our constitutional declaration of equality of all religions before the law. Cardinal O'Connell has said:

Thus to every American citizen has come the blessed inheritance of civil, political, and religious liberty safeguarded by the American Constitution . . . the right to worship God according to the dictates of his conscience.

Archbishop Ireland has said:

The Constitution of the United States reads: "Congress shall make no laws respecting an establishment of religion or prohibiting the free exercise thereof." It was a great leap forward on the part of the new nation towards personal liberty and the consecration of the rights of conscience.

Archbishop Dowling, referring to any conceivable union of Church and State, says:

So many conditions for its accomplishment are lacking in every government of the world that the thesis may well be relegated to the limbo of defunct controversies.

I think you have taken your thesis from this limbo of defunct controversies.

Archbishop Ireland again said:

Religious freedom is the basic life of America, the cement running through all its walls and battlements, the safeguard of its peace and prosperity. Violate religious freedom against Catholics, our swords are at once unsheathed. Violate it in favor of Catholics, against non-Catholics, no less readily do they leap from the scabbard.

Cardinal Gibbons has said:

American Catholics rejoice in our separation of Church and State, and I can conceive no combination of circumstances likely to arise which would make a union desirable to either



Church or State. . . . For ourselves we thank God that we live in America, "in this happy country of ours," to quote Mr. Roosevelt, where "religion and liberty are natural allies."

And referring particularly to your quotation from Pope Pius IX, Dr. Ryan, in *The State and the Church*, says :

Pope Pius IX did not intend to declare that separation is always unadvisable, for he had more than once expressed his satisfaction with the arrangement obtaining in the United States.

With these great Catholics I stand squarely in support of the provisions of the Constitution which guarantee religious freedom and equality.

## II

I come now to the speculation with which theorists have played for generations as to the respective functions of Church and State. You claim that the Roman Catholic Church holds that, if conflict arises, the Church must prevail over the State. You write as though there were some Catholic authority or tribunal to decide with respect to such conflict. Of course there is no such thing. As Dr. Ryan writes :

The Catholic doctrine concedes, nay, maintains, that the State is coördinate with the Church and equally independent and supreme in its own distinct sphere.

What is the Protestant position? The Articles of Religion of your Protestant Episcopal Church (XXXVII) declare :

The Power of the Civil Magistrate extendeth to all men, as well Clergy as Laity, in all things temporal ; but hath no authority in things purely spiritual.

Your Church, just as mine, is voicing the injunction of our common Saviour to render unto Cæsar the things that are Cæsar's, and unto God the things that are God's.

What is this conflict about which you talk? It may exist in some lands which do not guarantee religious freedom. But in the wildest dreams of your imagination you cannot conjure up a possible conflict between religious principle and political duty in the United States, except on the unthinkable hypothesis that some law were to be passed which violated the common morality of all God-fearing men. And if you can conjure up such a conflict, how would a Protestant resolve it? Obviously by the dictates of his conscience. That is exactly what a Catholic would do. There is no ecclesiastical tribunal which would have the slightest claim upon the obedience of Catholic communicants in the resolution of such a conflict. As Cardinal Gibbons said of the supposition that "the Pope were to issue commands in purely civil matters":

He would be offending not only against civil society, but against God, and violating an authority as truly from God as his own. Any Catholic who clearly recognized this would not be bound to obey the Pope; or rather his conscience would bind him absolutely to disobey, because with Catholics conscience is the supreme law which under no circumstances can we ever lawfully disobey.

Archbishop Ireland said:

To priest, to Bishop, or to Pope (I am willing to consider the hypothesis) who should attempt to rule in matters civil and political, to influence the citizen beyond the range of their own orbit of jurisdiction that are the things of God, the answer is quickly made: "Back to your own sphere of rights and duties, back to the things of God."

Bishop England, referring to our Constitution, said:

Let the Pope and the Cardinals and all the powers of the Catholic world united make the least encroachment on that Constitution, we will protect it with our lives. Summon a Gen-

eral Council—let that Council interfere in the mode of our electing but an assistant to a turnkey of a prison—we deny the right, we reject the usurpation.

Our Supreme Court has marked out the spheres of influence of Church and State in a case from which you quote copiously, *Watson v. Jones*, 13 Wall. 729; but you refrain from quoting this statement:

The right to organize voluntary religious associations, to assist in the expression and dissemination of any religious doctrine, and to create tribunals for the decision of controverted questions of faith within the association, and for the ecclesiastical government of all of the individual members, the congregation and officers within the general association, is unquestioned. . . . It is of the essence of these religious unions and of their right to establish tribunals for the decision of questions arising among themselves that those decisions could be binding in all cases of ecclesiastical cognizance, subject only to such appeal as the organism itself provides for.

That is the State's attitude toward the Church. Archbishop Ireland thus puts the Church's attitude toward the State:

To the Catholic obedience to law is a religious obligation, binding in God's name the conscience of the citizen. . . . Both Americanism and Catholicism bow to the sway of personal conscience.

Under our system of government the electorate entrusts to its officers of every faith the solemn duty of action according to the dictates of conscience. I may fairly refer once more to my own record to support these truths. No man, cleric or lay, has ever directly or indirectly attempted to exercise Church influence on my administration of any office I have ever held, nor asked me to show special favor to

Catholics or exercise discrimination against non-Catholics.

It is a well-known fact that I have made all of my appointments to public office on the basis of merit and have never asked any man about his religious belief. In the first month of this year there gathered in the Capitol at Albany the first Governor's cabinet that ever sat in this State. It was composed, under my appointment, of two Catholics, thirteen Protestants, and one Jew. The man closest to me in the administration of the government of the State of New York is the one who bears the title of Assistant to the Governor. He had been connected with the Governor's office for thirty years, in subordinate capacities, until I promoted him to the position which makes him the sharer with me of my every thought and hope and ambition in the administration of the State. He is a Protestant, a Republican, and a thirty-second-degree Mason. In my public life I have exemplified that complete separation of Church from State which is the faith of American Catholics today.

### III

I next come to education. You admit that the Supreme Court guaranteed to Catholics the right to maintain their parochial schools; and you ask me whether they would have so ruled if it had been shown that children in parochial schools were taught that the State should show discrimination between religions, that Protestants should be recognized only as a matter of favor, that they should be intolerant to non-Catholics, and that the laws of the State could be flouted on the ground of the imaginary conflict. My summary answer is: I and all my children went to a parochial school. I never heard of any such stuff being taught or of anybody who claimed that it was. That any group of Catholics would teach it is unthinkable.



## IV

You next challenge the action of the Rota in annulling the Marlborough marriage. You suggest that the Rota by annulling the marriage (where the civil courts recognized it, but granted only a divorce) is interfering with the civil jurisdiction. That might be so if anybody claimed that the decree of the Rota had any effect under the laws of America, or any other nation of the world. But you must know that it has no such effect and that nobody claims it has. The decree merely defined the status of the parties as communicants of the Church. Your Church refuses to recognize the ecclesiastical validity of divorces granted by the civil tribunals. Your Church has its tribunals to administer its laws for the government of its members as communicants of your Church. But their decrees have no bearing upon the status of your members as citizens of the United States. There is no difference in that respect between your tribunals and the Rota.

## V

Finally you come to Mexico. By inference from the brief of a distinguished lawyer you intimate that it is the purpose of organized Catholics to seek intervention by the United States. Now I never read Mr. Guthrie's brief. I do not have to read it to reply to you, because the Pastoral Letter of the Catholic Episcopate of the United States in unmistakable words disclaimed any such intention. I do not see how, with complete candor, you could write to me about Mexico without quoting the following from that Pastoral Letter:

What, therefore, we have written is no call on the faithful here or elsewhere to purely human action. It is no interposition of our influence either as Bishops or as citizens to reach those who possess political power anywhere on earth, and least of all in our own country, to the end that they should intervene

with armed force in the internal affairs of Mexico for the protection of the Church. Our duty is done when, by telling the story, we sound a warning to Christian civilization that its foundations are again being attacked and undermined. For the rest, God will bring His will to pass in His own good time and in His own good way.

My personal attitude, wholly consistent with that of my Church, is that I believe in peace on earth, good will to men, and that no country has a right to interfere in the internal affairs of any other country. I recognize the right of no church to ask armed intervention by this country in the affairs of another, merely for the defense of the rights of a church. But I do recognize the propriety of Church action to request the good offices of this country to help the oppressed of any land, as those good offices have been so often used for the protection of Protestant missionaries in the Orient and the persecuted Jews of eastern Europe.

## VI

I summarize my creed as an American Catholic. I believe in the worship of God according to the faith and practice of the Roman Catholic Church. I recognize no power in the institutions of my Church to interfere with the operations of the Constitution of the United States or the enforcement of the law of the land. I believe in absolute freedom of conscience for all men and in equality of all churches, all sects, and all beliefs before the law as a matter of right and not as a matter of favor. I believe in the absolute separation of Church and State and in the strict enforcement of the provisions of the Constitution that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. I believe that no tribunal of any church has any power to make any decree of any force in the law

of the land, other than to establish the status of its own communicants within its own church. I believe in the support of the public school as one of the corner stones of American liberty. I believe in the right of every parent to choose whether his child shall be educated in the public school or in a religious school supported by those of his own faith. I believe in the principle of noninterference by this country in the internal affairs of other nations and that we should stand steadfastly against any such interference by whomsoever it may be urged. And I believe in the common brotherhood of man under the common fatherhood of God.

In this spirit I join with fellow Americans of all creeds in a fervent prayer that never again in this land will any public servant be challenged because of the faith in which he has tried to walk humbly with his God.

Very truly yours,

ALFRED E. SMITH.

## SAFEGUARDING CIVIL LIBERTIES

### *Rights of Minorities*

The municipal campaign of 1917, which resulted in the election of Alfred E. Smith to the presidency of the Board of Aldermen of New York City, also brought for the first time in the history of the city five Socialist aldermen to the Board. Smith stated his attitude toward political minorities in his opening speech as president of the Board in January, 1918, and as Governor in his veto of "an act to amend the election law relative to the recognition of certain political organizations as political parties."

To the majority party, I desire to say that the people of this city in no uncertain terms placed upon us a grave responsibility. The glory that comes from what we do of benefit can be claimed by everybody. Those things which are neglected constitute our sins of omission.

I have a keen understanding of the relationship to the body of the minority and the minor minority (meaning the Socialist members). The people rule negatively as well as affirmatively, and a good, healthy, vigorous minority is the necessary check on great power.

The rules of the Board are intended for the protection of the rights of the minorities as well as to expedite the business of the majority. In that spirit, I will interpret them with a desire to do equal and even-handed justice to all.



*Foreigners and Citizenship*

In 1920 there was a considerable movement in the State for the suppression of radicalism. Some of it was associated with a prejudice against foreigners.

Smith commented on the subject in his annual message of that year.

We are a government by the will of the majority. No other kind of rule is democracy to an American. We ascertain that will by free public discussion. Such rights as that of free speech and free assemblage are fundamental, for without them government by enlightened will of the majority is not possible.

During the war in the interest of national unity and for our common defense against our enemy, every sane American relinquished some of his freedom.

Now that the war is over, we should return to a normal state of mind, and keep our balance, and an even keel.

The anarchist, the violent revolutionist, the underminer of our institutions should receive no mercy at our hands. He does not belong here. But while we should be relentless toward this type of distorted personalities, we must not confuse them with the hundreds of thousands of our brothers of alien stock, who have made America their home and who have helped to build up our great nation by self-respecting labor and their citizenship. Their sons have added luster to our name in the battlefields of the Great War. Let us remember them now and let us resent as sinister and as a new expression of the old know-nothing spirit, the attaching to all citizens of foreign birth the stigma of radicalism.

I express myself thus feelingly because I know them. I have lived among them. Many of them have been my friends and neighbors. The discontent among them is often the

natural homesickness of men and women who do not yet feel at home in their new surroundings. Some of it is due to an exploitation of their helplessness and ignorance. Such discontent every red-blooded man respects. It is different from the destructive spirit of revolutionary firebrands. It should be met by a constructive movement of Americanization, which will make them understand and respect the ideals of America and make them feel at home. The State needs and welcomes to its citizenship the best that the Old World has to give us.

Appreciating as I do the fundamental wholesomeness of citizens of foreign birth, I am mindful of the danger of spreading the infection of revolutionary propaganda among them. We must immunize them against the infection, by approaching the problem in a spirit of sanity, a thorough and sympathetic understanding, and a fearless and courageous meeting of their needs. This is the fundamental basis of any Americanization program.

In this connection we must recognize the necessity of a sound program of social, industrial and governmental betterment, which will remove those causes of discontent which true Americanism requires should be eradicated.

### *The Expulsion of Five Socialist Members from the Assembly*

Smith took occasion to express himself again on the rights of minorities when five Socialist Assemblymen were expelled from the Assembly during the legislative session of 1920. The arbitrary method of their expulsion aroused a storm of protest from the Bar Association and civic organizations, and from leading publicists without regard to party.

Recognizing the prerogative of the Legislature as a co-ordinate branch of the government, he issued the following statement:

Although I am unalterably opposed to the fundamental principles of the Socialist party, it is inconceivable that a minority party duly constituted and legally organized should be deprived of its right to expression so long as it has honestly, by lawful methods of education and propaganda, succeeded in securing representation, unless the chosen representatives are unfit as individuals.

It is true that the Assembly has arbitrary power to determine the qualifications of its membership; but where arbitrary power exists it should be exercised with care and discretion because from it there is no appeal.

If the majority party at present in control of the Assembly possesses information that leads it to believe that these men are hostile to our form of government and would overthrow it by processes subversive of law and order, these charges in due form should have been presented to the Legislature and these men tried by orderly processes. Meanwhile, presumably innocent, until proven guilty, they should have been allowed to retain their seats.

Our faith in American democracy is confirmed not only by its results, but by its methods and organs of free expression. They are the safeguards against revolution. To discard the methods of representative government leads to the misdeeds of the very extremists we denounce—and serves to increase the number of the enemies of orderly free government.

### *Memoranda Accompanying the Vetoes of the Lusk Laws*

One of the results of the trial of five Socialist Assemblymen expelled from the Assembly because of activities alleged to be subversive of our form of government was the appointment of a joint legislative committee, with Senator Lusk as chairman, to investigate revolutionary radicalism.

The committee recommended legislation designed to detect revolutionary conspirators, to test the loyalty of teachers, and regulate the registration of schools and school courses with the object of preventing the young from being corrupted by reds and radicals. These were known as the Lusk Bills.

The Governor's memoranda accompanying his vetoes of these bills set forth his position on civil liberties in a democracy.

Albany, May 18, 1920.

Memorandum filed with Senate Bill, Int. No. 1118, Printed No. 1272, entitled:

"An act to amend the Executive Law, in relation to the powers of attorney-general with respect to prosecutions for criminal anarchy, and making an appropriation therefor."

NOT APPROVED.

This bill adds to the Executive Law two sections. The first authorizes the attorney-general to conduct investigations and prosecutions of violations of the criminal-anarchy statute and to appear before the grand jury to secure indictments therefor. It authorizes him to issue subpoenas and compel the attendance of witnesses, and gives him concurrent jurisdiction with the district attorneys.

The second section creates a bureau in the office of the attorney-general to conduct such prosecutions and authorizes him to employ investigators, process servers, and other assistants, without civil service examination.

This bill must be read in connection with chapter 595 of the Laws of 1917, which was a war measure authorizing the attorney-general to conduct secret inquiries into matters concerning public peace, safety or justice. The existence of a bureau of secret police may be justified as a war measure during the existence of a state at war, but certainly in a democracy there can be no justification for expanding and



increasing the powers of such a secret police bureau in times of peace. There is no just cause for providing any different method for enforcing the criminal anarchy statute from that employed in enforcing the other penal laws of the State—through the agencies of the grand jury, the magistrate and the district attorneys of the respective counties of the State.

The traditional abhorrence of a free people of all kinds of spies and secret police is valid and justified and calls for the disapproval of this measure.

The bill is, therefore, disapproved.

(Signed) ALFRED E. SMITH.

Albany, May 18, 1920.

Memorandum filed with Senate Bill, Int. No. 1121, Printed No. 1275, Assembly Reprint No. 2165, entitled:

“An act to amend the education law, in relation to the qualifications of teachers, and making an appropriation for expenses.”

NOT APPROVED.

This bill provides that every public-school teacher in the State shall obtain a certificate from the Commissioner of Education to the effect that he or she is of good moral character, and has shown satisfactorily that he or she will support the State and Federal Constitutions and is loyal “to the institutions and laws thereof.” The certificate may be revoked without hearing on the ground that the commissioner may find that the teacher is not “loyal to the institutions of the United States and of the State of New York and the laws thereof.” The test established is not what the teacher teaches, but what the teacher believes, and the effect of the bill would be to make the Commissioner of Education the sole and arbitrary dictator of the personnel of the teaching force of the State in its public schools.

This bill must be judged by what can be done under its provisions. It permits one man to place upon any teacher the stigma of disloyalty and this even without hearing or trial. No man is so omniscient or wise as to have entrusted to him such arbitrary and complete power not only to condemn any individual teacher, but to decree what belief or opinion is opposed to the institutions of the country.

No teacher could continue to teach if he or she entertained any objection, however conscientious, to any existing institution. If this law had been in force prior to the abolition of slavery, opposition to that institution which was protected by the Constitution and its laws would have been just cause for the disqualification of a teacher. There is required of the teacher not only loyalty to the Constitution and laws of the State but also loyalty to what is described as the institutions of the United States and of the State of New York.

Opposition to any presently established institution, no matter how intelligent, conscientious, or disinterested this opposition might be, would be sufficient to disqualify the teacher. Every teacher would be at the mercy of his colleagues, his pupils, and their parents, and any word or act of the teacher might be held by the commissioner to indicate an attitude hostile to some of "the institutions of the United States" or of the State.

The bill unjustly discriminates against teachers as a class. It deprives teachers of their right to freedom of thought; it limits the teaching staff of the public schools to those only who lack the courage or the mind to exercise their legal right to just criticism of existing institutions. The bill confers upon the Commissioner of Education a power of interference with freedom of opinion which strikes at the foundations of democratic education.

The bill is, therefore, disapproved.

(Signed) ALFRED E. SMITH.

Albany, May 18, 1920.

Memorandum filed with Senate Bill, Int. No. 1120,  
Printed No. 1767, entitled:

“An act to amend the education law, in relation to licensing and supervision of schools and school courses, and making an appropriation therefor.”

NOT APPROVED.

This bill provides in substance that no school shall be conducted in this State without a license from the Board of Regents and that no license shall be granted by the Board of Regents unless that Board is satisfied that the instruction proposed will not be “detrimental to the public interest.” Power is also granted to the regents to revoke any license. Certain specific schools, such as public schools, schools conducted by well-recognized religious denominations, and others, are excluded from the operation of the bill. No criterion is established by which there shall be determined what is or is not “detrimental to the public interest.”

This mere statement of the provisions of this bill is sufficient to demonstrate that in details it is wholly impossible of just enforcement. I prefer, however, to rest my disapproval of it not solely nor chiefly on that ground, but on the broader ground that in fundamental principle the bill is vicious. Its avowed purpose is to safeguard the institutions and traditions of the country. In effect, it strikes at the very foundation of one of the most cardinal institutions of our nation—the fundamental right of the people to enjoy full liberty in the domain of idea and speech. To this fundamental right there is and can be under our system of government but one limitation, namely, that the law of the land shall not be transgressed, and there is abundant statute law prohibiting the abuse of free speech. It is unthinkable that in a representative democracy there should be delegated to

any body of men the absolute power to prohibit the teaching of any subject of which it may disapprove.

This bill seeks to bring within the power of prohibition of the Board of Regents every subject, political, ethical, religious, or scientific. Under its provisions they might decree that it was inimical to the public interest to give instruction on the theory of the single tax, on minimum wage, on child-labor laws and on public regulation of industry. It would then become a crime to instruct in any subject which, in the judgment of this Board, was inimical to the public interest. The free play of public opinion, resting upon freedom of instruction and discussion within the limits of the law, would be destroyed and we should have the whole sphere of education reduced to a formula prescribed by governmental agency.

The clash of conflicting opinions, from which progress arises more than from any other source, would be abolished by law, tolerance and intellectual freedom destroyed, and an intellectual autocracy imposed upon the people. The destruction of the German Empire, through the blind inability of its people to understand the spirit of free institutions, is a striking example of the ruin that may ensue from forcing into a narrow, governmental mold the processes of education. The proponents of these bills urge that they are essential to the protection of the community against radical opinion. I might rest upon the saying of Benjamin Franklin that "they that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety." But I go further—the safety of this government and its institutions rests upon the reasoned and devoted loyalty of its people. It does not need for its defense a system of intellectual tyranny which, in the endeavor to choke error by force, must of necessity crush truth as well. The profound sanity of the American people has been demonstrated in many a crisis,



and I, for one, do not believe that governmental dictation of what may and may not be taught is necessary to achieve a continuance of the patriotism of our citizenship and its loyal support of the government and its institutions.

The bill is, therefore, disapproved.

(Signed) ALFRED E. SMITH.

Albany, May 18, 1920.

Memorandum filed with Assembly Bill, Int. No. 1668,  
Printed No. 2166, entitled:

“An act to amend the election law, relative to the recognition of certain political organizations as political parties.”

NOT APPROVED.

This bill provides for an amendment to the election law authorizing the attorney-general of the State, if information be presented to him that any political party, otherwise entitled under the election law to be recognized as a party, supports, advocates, maintains, or declares for principles, doctrines, or policies, which, if carried into effect, would violate the State or Federal constitution, or unlawfully imperil or destroy the government of the country or the State, or advocates policies which, if supported by a private person, would be unlawful, to make application to the appellate division of the Third Department to determine whether such political organization is entitled to recognition as a party.

The appellate division is then authorized to determine whether any of the charges in the petition are proved, and upon adverse determination the party affected shall not be entitled to any place upon the official ballot, and the party shall, in all other respects, be deprived of the prerogatives of a party.

This bill would place upon one particular appellate division

of the Supreme Court of this State, and no other, the duty of deciding upon the validity of the political principles advocated by any party in the State. Its determination would be final and controlling. To its members would be permitted the despotic power to strike from the ballot the candidates of any party. The tests which it would be compelled to apply would, of necessity, be not legal but political tests. The bill would throw a high appellate court into the very midst of political controversy. This alone would require its disapproval, but to this objection must be added an even more vital and far-reaching one.

The bill would confer upon this small body of men, perhaps all of one political faith, the absolute power in effect to disfranchise hundreds of thousands of voters. It may even exercise this unheard-of power upon the faith of affidavits, without ever hearing a witness. A few judges elected in one part of the State, and assigned to the appellate division of their department, would have the power to keep from the ballot all candidates of whose party principles they disapproved.

The question in electing such judges, or in assigning them, would not be their qualifications for judicial duty, but rather an inquiry as to what their attitude would be in giving to voters of the entire State an opportunity to exercise the fundamental functions and rights of citizenship. If unpopular minorities are to be deprived by any such device as this of their basic rights to representation upon the ballot, they will, indeed, have conferred upon them a just claim to political martyrdom. The very evils of ultraradicalism which are feared by the proponents of this measure would, in my opinion, be infinitely enhanced if the bill became law.

The voters of this State are entitled as of right to the privilege of choosing their own candidates and their own officials and to enunciate their own platform, and no ma-

jority should have the right to exclude any minority from its just participation in the functions of government.

This country has lived and thrived from its inception until today, when it is recognized as the leading world power, upon the fundamental principles set forth in the Declaration of Independence, one of which was the declaration that all men are created equal. No matter to what extent we may disagree with our neighbor, he is entitled to his own opinion, and, until the time arrives when he seeks by violation of law to urge his opinion upon his neighbor, he must be left free not only to have it but to express it. In a State, just as in a legislative body, the majority needs no protection, for they can protect themselves. Law, in a democracy, means the protection of the rights and liberties of the minority. Their rights, when properly exercised, and their liberties, when not abused, should be safeguarded. It is a confession of the weakness of our own faith in the righteousness of our cause when we attempt to suppress by law those who do not agree with us. I cannot approve a bill which confers upon three judges, learned though they be, but nevertheless human, the power to disfranchise any body of our citizens.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

Albany, May 25, 1923.

Memorandum filed with Senate Bill, Introductory No. 41, Printed No. 41, entitled:

“An act to repeal section five hundred and fifty-five of the education law, relating to the qualifications of teachers.”

and

Senate Bill, Introductory No. 42, Printed No. 42, entitled:

"An act to repeal section seventy-nine of the education law, relating to licensing and supervision of schools and school courses."

APPROVED.

I am affixing my signature to the two acts which have for their purpose the repeal of the so-called Lusk Laws. I am satisfied that these should not remain upon the statute books of this State, because they are repugnant to the fundamentals of American democracy. Under the laws repealed, teachers, in order to exercise their honorable calling, were in effect compelled to hold opinions as to governmental matters deemed by a State officer consistent with loyalty; and, further, no private school could be maintained in this State unless its teachings were similarly satisfactory to certain officials of the State. Freedom of opinion and freedom of speech were by these laws unduly shackled, and an unjust discrimination was made against the members of a great profession.

In signing these bills, I firmly believe that I am vindicating the principle that, within the limits of the penal law, every citizen may speak and teach what he believes.

(Signed) ALFRED E. SMITH.

### *Censorship of Motion Pictures*<sup>1</sup>

Recent legislation in our own State has aimed at serious restriction of personal liberty.

For several years we have been drifting away from the fundamental ideal of the Declaration of Independence and the document that was intended to give it force and vigor, the Constitution of the United States. Throughout the Declaration there are related the abuses to which the American people were subjected by tyrannical government. The im-

<sup>1</sup> Extract from annual message of 1923.



position of taxes without consent of the people, interference with trade and commerce and with the personal liberty of the citizens, were set forth as the principal reasons for a declaration of a fundamental principle of government that has burned its way through the literature of the world right up to our own time. Inquisitions, spy systems, rules and regulations for personal conduct not prompted by the Ten Commandments, are an unnecessary interference with the freedom of a people.

It has frequently been said that the best government is the one which governs the least. In monarchies, the people exist for the government. In the free democracy of the United States, the government exists for the people, and its every move should be the expression of their free will.

Throughout the Constitution of the United States there was sounded the note set forth in the preamble, which said that the purpose of the document was "to secure the blessings of liberty to ourselves and our posterity." In our own State, the opening sentence of our Constitution is the expression of our gratitude to Almighty God for our freedom, and in order to secure its blessings we establish a Constitution.

As all crimes are predicated upon sins, no persons should be held guilty of sin under the law until they can be convicted of a crime. The Bill of Rights throws every possible safeguard around the individual and the fullest possible presumption of innocence is constitutionally established until the contrary is proven beyond reasonable doubt. The danger to the future of our liberty lies in our apparent willingness at times to compromise with this principle. Once this avenue is opened nobody can, with any degree of certainty, predict where it may lead.

Censorship is not in keeping with our ideas of liberty and of freedom of worship or freedom of speech. The people of

the State themselves have declared that every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no law shall be passed to restrain or abridge liberty of speech or of the press. This fundamental principle has equal application to all methods of expression.

The spoken drama has always had its place as an influence to educate. In many countries it is sustained as a national enterprise. In early days it was used to give expression to Biblical history. Nobody will dispute that the invention of moving pictures opened the way for a new avenue of great education as well as of amusement. We look too lightly on guarantees of freedom of speech and of the press when we select from among our citizens three people who before the fact have the power to declare what is and what is not a violation of the statutes enacted for the protection of the morality of our people.

Carrying this policy to its logical conclusion, everything written or spoken or taught might be subject to a censorship by public authority. We have abundant law in the State to jail the man who outrages public decency. If we have not, enact it. And we have jails enough to hold him after his conviction. I believe that the enactment of a statute providing for censorship of the moving pictures was a step away from that liberty which the Constitution guaranteed.

Interference with personal liberty, censorship of thought, word, act or teaching, abridgment in any way of the freedom of speech and of the press by the government itself, unquestionably encourage, if in fact they do not promote, intolerance and bigotry in the minds of the few directed against the many. If we would obey that simple but important divine commandment, "Love thy neighbor as thyself," the State could have nothing but success—failure would be impossible.

## PROTECTING PERSONAL LIBERTIES

### *Memorandum Accompanying Approval of the Bill to Repeal the Mullan-Gage Law*

Albany, June 1, 1923.

Memorandum filed with Assembly Bill, Introductory No. 1614, Printed No. 1817, entitled:

“An act to repeal Article 113 of the Penal Law and Section 11-b, chapter five of title two and section 802-b of the Code of criminal procedure, relating to the manufacture and sale of alcoholic liquors.”

APPROVED.

The bill under consideration proposes to repeal Article 113 of the Penal Law which enacted into the statute laws of the State substantially the provisions of the Volstead Act.

Because of the far-reaching interest in this bill displayed by all classes of our people, I have given nearly one month of solid and careful thought to its final disposition. I deem it wise to go into some detail in order to clear up misunderstanding on the part of a great many of the people who have written or spoken to me about it.

It is furthest from my thoughts to question the motives of the men and women of integrity throughout the State, who with an eye single to the right and the just, have arrayed themselves on different sides of the question presented. Some seem to think that my approval will mean the preservation of American institutions. Many others impelled by equally patriotic motives seem to feel that my approval will be destructive of American government. Obviously, both

cannot be right and I have therefore given careful study to the question involved and the arguments submitted in order that my final disposition of it may be in full and complete accord with what my conscience dictates.

A brief review at this time of the entire question at issue so far as the State of New York is concerned would be helpful. The Eighteenth Amendment to the Federal Constitution was ratified by the Legislature of this State at the session of 1919. In 1920 the same Senate and Assembly presided over and directed by the same leaders enacted the so-called 2.75 per cent beer and wine bill. This bill I approved. It was afterwards held unconstitutional, and the United States Supreme Court declared in rendering its decision that the word "concurrent" in the Eighteenth Amendment referred only to concurrence in legislation which Congress passed to execute the provisions of the Eighteenth Amendment and did not permit the States to adopt a definition of an intoxicating beverage inconsistent with the definition contained in the Federal law. In short the State is therefore limited in defining an intoxicating beverage to one containing not more than one-half of one per cent of alcohol.

In 1922 the Democratic State Convention inserted in its platform a plank favoring an amendment to the Volstead Act which would permit the States under certain restrictions and after popular referendum to permit traffic in light wines and beer not regarded as intoxicating beverages. That platform and the candidates who ran upon it received the overwhelming support of the people of this State at the last election. I cite all this merely as indicating by history the attitude of a majority of the people of this State toward this whole question. Nevertheless, it is a fact that the Eighteenth Amendment is the law of the land and no one suggests, least of all the Legislature of this State or myself, that it should be violated.



In 1921 there was enacted in this State what has come to be known as the Mullan-Gage Law. It put into the penal statutes substantially all of the provisions of the Volstead Act but accompanied them by even more rigorous provisions as to search and seizure.

I make no criticism of this action on the part of the Legislature, but I am entirely unwilling to admit the contention that there was put upon the State either by the Eighteenth Amendment, the Volstead Act, or the United States Supreme Court decision any obligation to pass any law adopting into the State law the provisions of the Volstead Act. Learned jurists who have given the best years of their lives to judicial service in this State have so advised me. Leading members of the bar of other States concur fully in this belief. Advising the electorate of the State of Massachusetts, every living former attorney-general of that Commonwealth as well as many of her distinguished lawyers said:

The Eighteenth Amendment gives Congress and to each of the forty-eight States the concurrent right to enforce the amendment. This is not a command but an option. It does not create a duty.

I have read thousands of letters, and I have listened to the fullest discussion, and no one has pointed out to me any provision of the Constitution or of the statutes or any decision of the United States Supreme Court which imposes upon our State any constitutional duty to maintain a State enforcement act, and I am satisfied that as a matter of law this contention does not admit of doubt.

I am dealing with three classes of people, the radical dries, the radical wets, and those who hold moderate views on this subject. The dries seem to see a moral duty on the part of the State to maintain an enforcement act. They are undoubtedly led to this conclusion by their own frame of mind,

because they do not suggest that the State maintain an act merely enforcing the Eighteenth Amendment in accordance with the wishes of the majority of the people of the State, but they insist that there be a State enforcement act exactly paralleling the Volstead Act.

Congress made its determination as to what constituted an intoxicant. This State decidedly disagreed with that determination. After all is said and done, whatever may be the interpretation of the Eighteenth Amendment by any class or group of our citizens, under our form of government we look to the courts for the interpretation which we must all follow. While legislative bodies make the laws, the courts must construe them and we are bound by the construction put upon them by our judicial tribunals. The United States Supreme Court said :

The power confided to Congress by the Eighteenth Amendment is in no wise dependent upon or affected by action or inaction on the part of the several States or any of them.

If the right of Congress is paramount, its responsibility must be paramount.

Expanding this idea the statement signed by the attorney-general of Massachusetts adds :

Nullification, as defined by the highest authority, is the action of a State intended to abrogate within its limits the operation of a Federal law.

This no one proposes to do. The mere omission to maintain a State statute in no way abrogates a Federal statute. It seems to me that this effectually disposes of the loose talk about the nullification of the Constitution by refusal on the part of any of the States to enact separate statutes.

Inasmuch as it would be physically impossible for me to make answer to all of the communications received by me

from citizens of our own State as well as from other States who have sought to guide and advise me in this matter, I would like as a mark of my appreciation of their efforts to deal here with the considerations urged by them as well as with considerations urged in the oral arguments made at the hearing.

Let me first say what the repeal of the Mullan-Gage Law will not do.

Its repeal will not make legal a single act which was illegal during the period of the existence of the statute.

Many communications I have received and arguments that have been made to me indicate a belief that its repeal will make possible the manufacture, sale and distribution of light wines and beer. So far as that is concerned it will still be under the control it is under today, subject to the provisions of the Volstead Act. Repeal of the Mullan-Gage Law will not bring back light wines and beer.

The Supreme Court of the United States said:

The Constitution, laws and treaties of the United States are as much the part of the law of every State as its own local laws and constitution.

That means that after repeal there will still rest upon the peace officers of this State the sacred responsibility of sustaining the Volstead Act with as much force and as much vigor as they would enforce any State law or local ordinance, and I shall expect the discharge of that duty in the fullest measure by every peace officer in the State. The only difference after repeal is that today the police officer may take the offender for prosecution to the State court, to the Federal court, or to both. After the repeal of the Mullan-Gage Law the prosecution must be where it belongs—in the Federal court. In law and in fact there is no more lawlessness in repealing the Mullan-Gage Law than there is in the failure

of the State to pass statutes making it a State crime to violate any other Federal penal statute.

Let it be understood once and for all that this repeal does not in the slightest degree lessen the obligation of peace officers of the State to enforce in its strictest letter the Volstead Act, and warning to that effect is herein contained as coming from the Chief Executive of the State of New York.

At this point, with all the earnestness that I am able to bring to my command, let me assure the thousands of people who wrote to me on this subject, and the citizens of the State generally, that the repeal of the Mullan-Gage Law will not and cannot by any possible stretch of the imagination bring back into existence the saloon which is and ought to be a defunct institution in this country, and any attempt at its reestablishment by a misconstruction of the Executive attitude on this bill will be forcefully and vigorously suppressed.

Let me now say what the repeal of the Mullan-Gage Law will do.

Its repeal will do away entirely with the possibility of double jeopardy for violation of the laws enforcing the Eighteenth Amendment. By that we mean that no citizen shall be twice punished for the one offense. Under the United States Supreme Court decision in the Lanza Case, a citizen is today subjected to double trial and even to double punishment for a single offense because such alleged offense is a violation of both the State and the Federal law. This is an unwarranted and indefensible exception to the fundamental constitutional guarantee contained in both the Federal and State Constitutions that no person shall be twice tried or punished for the same offense.

The repeal of the Mullan-Gage Law will put the State in harmony with the recent decision by United States District Judge Knox declaring a portion of the Volstead Act to be in contravention of the Eighteenth Amendment. By that de-



cision the United States District Court in New York has laid down the principle that the prohibition contained in the Eighteenth Amendment does not apply to the necessary and proper prescription of alcoholic liquors for medicinal purposes and that the Federal Government gains no power under the Volstead Act except to prohibit traffic in alcoholic liquors for beverage purposes as distinct from medicinal purposes. Provisions of the Mullan-Gage Law if left in force would still maintain in the law of this State the limitations contained in the Volstead Act which the great body of the medical profession in our State seems practically unanimous in denouncing as an interference with the necessary requirements of their profession.

The repeal of the Mullan-Gage Law will mean that violations of the Volstead Act will hereafter be prosecuted in the Federal courts. This to my mind seems to be desirable as it will fix in the minds of offenders the thought that they have violated a Federal statute intended to effectuate an amendment to the Constitution of the United States, rather than to have them harbor the thought that they are simply standing against what a great many of them may be led to believe is merely a local regulation.

The burden imposed on the State to prosecute traffickers in liquor as violators of a State statute is a wasteful and futile one because of the refusal of grand juries to indict and of petit juries to convict.

Let us apply to this question the principles of good business, good judgment and common sense. I promised myself that I would not consider this subject solely from the standpoint of constitutional law or political expediency, and I have labored to make my study of it practical. While there will be no let-up on the part of the police officials of this State in the enforcement of the Volstead Act, I cannot help thinking and saying, as I owe it to the people of this State to say,

that the real solution of proper enforcement rests primarily with the Federal Government.

The practical side of this question to my way of thinking indicates that little if any of the liquor consumed in this State is manufactured here. It is imported from foreign countries. The Federal Government is the one agency that can attack the base of supply. It is infinitely easier to stop the smuggling in of five hundred cases of liquor before bulk is broken than to trace the same five hundred after they find their way into different parts of the State in small quantities.

The division of responsibility for primary execution of the enforcement law may in part explain the failure of Federal enforcement officials to stop the smuggling of liquor in bulk into this State, which has certainly raised a serious question as to the efficiency and in some cases the earnestness of Federal enforcement agencies. Whenever the ultimate responsibility is divided there is a tendency for each authority or agency upon whom it rests to rely upon the other. The State in the nature of things cannot guard her frontiers of land and water against this smuggling as well as the Federal authorities should be able to do it. If we place squarely upon the Federal authorities the primary duty and obligation to put an end to the enormous smuggling of liquor from foreign countries into this State, it will be where it rightfully belongs and we shall have taken a long step forward to the reestablishment of respect for and enforcement of law.

Over and beyond all this, I believe the approval of this repeal will reawaken in the public mind the fundamental conception of the law of the land and reestablish beyond doubt what constitute the essentials of the relation between the Federal Government and the sovereign States of the Union.

Recently the President of the United States, in reply to a letter from a citizen of this State who had suggested to the President that the repeal of this act bore the color of treason, said without disclaiming this particular suggestion, "With much that you say I am fully in accord."

I yield to no man in this country when it comes to respect for the utterances of the Chief Executive of the United States, but it is impossible for me to be unmindful of the fact that I am the Chief Executive of a sovereign State, and I am entirely in accord with a statement put forth in the course of this discussion and signed by former Judges Willard Bartlett, Almet F. Jenks, E. Henry Lacombe and Mr. Austen G. Fox, which dealt with the letter of the President and which in part said:

It would be a calamity to permit such fundamental misconceptions of the relations between the States and the Federal Government as may seem to be suggested by portions of the President's letter to pass unchallenged.

The children in our public schools have been taught to believe that our government rests upon the foundation that the States are sovereign with respect to all powers not expressly delegated by them to the Federal Government, and that while the laws of Congress are paramount within the delegated power, the States are sovereign within the reserved power. History gives us the reason for this. In the formation of the Union our forefathers in their wisdom understood that with our vast area and its heterogeneous population with their varying local interests what may be sound local policy in one community may be entirely inappropriate to the needs of another. To any student of our government I think it must be apparent that one of the great elements in the strength of our democracy is the supremacy of the Fed-

eral Government in its own sphere and the sovereignty of the several States in theirs.

We have been taught that eternal vigilance is the price of liberty and how far we may wander from the thoughts and ideals of the founders of our government is well illustrated by the suggestion in the President's letter that because the States have a larger police force than the Federal Government has, and because the Federal Government has at this time what the President describes as an inadequate machinery for the enforcement of the Volstead Act, therefore the States are obligated severally to enact statutes duplicating the Volstead Act. I am unable to understand from what source he believes this obligation to be derived and he does not disclose it. The President might with equal force suggest that at any time Congress in its wisdom saw fit to withhold adequate appropriation for the enforcement of any Federal law there immediately devolved a duty upon each State to enact that Federal law into a State statute and make every offense against Federal law not enforced a duty upon the States to punish it as a State offense and at State expense.

I am not here discussing the wisdom or unwisdom of prohibition. The question is rather whether all vestige of the rights of the States guaranteed by the Federal Constitution is to be driven from our political theory of government. With all respect for the President of the United States I must here reassert this principle against his challenge, and as the Chief Executive of the greatest sovereignty in the Union it is my duty to declare and maintain that sovereignty in exact accordance with the guarantees of the Constitution. This does not mean that a State has any right or power to enact any law that in any way infringes upon a Constitutional act of Congress, but it does mean that the Federal Government has no right to impose upon the State any obli-



gation to pass any statute affirmatively embodying any Federal statute.

The whole treatment of this question, and I speak only from history, has been marked by hypocrisy. There should be no such thing as carrying water on both shoulders. What the country is looking for today, if I read the signs of the times aright, is a constructive, forward-looking suggestion that disregards entirely the fanatical wets and the fanatical dries.

I yield to no man in my reverence and respect for the Constitution of the United States, and I advocate nothing which will infringe upon the provisions of the Eighteenth Amendment. It is nevertheless a fact that the definition of an intoxicating beverage contained in the Volstead Act is not an honest or a common sense one. It is impossible to divorce from the public mind the impression that the definition of an intoxicating beverage as containing not more than one-half of one per cent of alcohol was written by the fanatical dries in defiance of the general experience of mankind and of actual fact. It seems to me that common sense backed up by good medical opinion can find a more scientific definition of what constitutes an intoxicating beverage. Such a definition should be adopted by Congress as a proper and reasonable amendment of the Volstead Act and a maximum alcoholic content should be prescribed by Congress which would limit all States to the traffic in liquors which are in fact nonintoxicating within the meaning of the Eighteenth Amendment. Subject to that limitation each State should thereafter be left free to determine for itself what should constitute an intoxicating beverage. States which then wished to limit traffic to beverages containing not more than one-half of one per cent of alcohol would be free to do so, and those which desired to extend the traffic to the maximum limitation al-

lowed by Federal statute would be equally free to do so. There could be, within the limitations of the maximum, many differences of degree, extending even to the complete prohibition by some States of traffic in liquor containing any alcohol whatever.

This would be in keeping with the freedom and liberty of different States with differing local conditions to legislate for themselves, subject always to the maximum limitation enacted by Congress, which would be paramount.

I offer this as a constructive suggestion which will relieve the country from the stress of this perplexing question, which affords such a widespread difference of opinion, and thus give our people a chance to turn their minds to other and greater questions that are pressing for solution.

Much has been said in the public prints with respect to the effect my action on this bill may have upon my own political future. I have no political future that I am willing to attain by the sacrifice of any principle or any conviction of what in my mind is for the welfare and the benefit of this State and Nation.

Because I believe there is nothing to be gained either for the Nation or for the State by the retention of this statute, while on the other hand I believe that its repeal is of distinct benefit in the preservation of the rights of our people; because I believe that the repeal of this statute in no way nullifies the enforcement of the Volstead Act; because I believe that the fastening of the primary responsibility for prosecution for violations of the laws enforcing the Eighteenth Amendment should be upon the Federal authorities; and because I believe finally and most of all that the preservation of American democracy requires the maintenance of that balance between State and Nation which is guaranteed by the Constitution of the United States, and that the reassertion of that principle is today of vital consequence to the

preservation of the democratic form of government guaranteed to us by the Constitution; and being mindful of the responsibility placed on me by the electorate of this State, grateful for their overwhelming vote of confidence, devoted as I am to the welfare of the country and to the happiness and the prosperity of the State, I have after careful thought arrived at the conclusion that the bill before me should receive executive approval, and I therefore approve the bill.

(Signed) ALFRED E. SMITH.

### *Speech to the League of Women Voters on Law Enforcement*

The Governor again outlined his position on law enforcement to the League of Women Voters in session at the Ten Eyck Hotel, Albany, New York, December 2, 1927.

I am informed we are in convention assembled and that during that convention we are to discuss the problems that in our opinion are sufficiently important for us to take some position on as members of the League of Women Voters.

It is an expression of our interest in the public life of the State and comes at the significant period of one month before the Legislature convenes, through the instrumentality of which all progress which is to be made through law must be made.

More interesting still is the well-known fact that the League of Women Voters is nonpartisan. That means we belong to all the parties, and we give our attention to the particular party which comes the nearest to conforming to our ideas.

We have another purpose, I am given to understand, and that is to attempt to arouse a greater interest among the women of the State in our public affairs. Viewing the situation from the side lines as an ordinary citizen, I would say

that women have exceeded in the comparatively short period that they have been admitted to full citizenship even the wildest expectation of all those who promised that their activity would be beneficial to public life.

Now, what are we going to talk about? I read the papers occasionally and if they are any barometer of what is in the public mind, I pick from them at least one subject that seems to be agitating the League and which I am given to understand is scheduled for definite decision tomorrow. And that is a set of resolutions adopted by the Nassau County League of Women Voters in which they say: "Respect for and obedience to the law and the enforcement of law is vital to the preservation of any form of government."

Well, of course, that is stating a fundamental fact with which nobody who knows anything could possibly differ. Obedience to law and respect for law enforcement are unquestionably the very cornerstone or structure upon which any well-organized government must rest.

There is another whereas.

"Whereas, the Eighteenth Amendment and the Volstead Act are being openly attacked by organized opposition . . ." —what is wrong about that? Is there any reason why the opposition to the Volstead Act and to the Eighteenth Amendment shouldn't organize? Is there any question about the solidity, the force, and the effectiveness of the organized forces on the other side of that question, when in the public prints they require, according to their own statement, close to five million dollars for their organization in the next few years?

Why, the underlying principle of our democratic form of government is the right of people to organize for the purpose of opposing any law, for opposing any part of the Constitution with which they are not in harmony.

Let me count the time: Twelve years as an assemblyman;



one year as a delegate to the Constitutional Convention; one year as sheriff; one year as president of the Board of Aldermen; and four times as governor, I took an oath, a solemn oath to sustain the Constitution of this State, and there are parts of it that I hate. But I promised to sustain it and I will sustain it, but I didn't promise that I would give up my right to oppose that part of it which I do not like.

If anybody were to ask me tonight what I think of the apportionment article of the State Constitution which provides for the representation in the Assembly, I would tell them that it is the greatest perversion of democratic government that I ever saw. It goes further to deny the fundamental principle of proper democratic representation than any document I ever read, and was written for partisan purposes and to accomplish what it is now accomplishing, although the authorities had little reason to believe that in a single quarter of a century it would be so destructive of popular representation as it now is. Is there anybody who denies it? Nobody. Is there anybody in this State who can dispute that statement? Nobody. Is there anybody who can defend representation for ten thousand people in one section of the State where it requires one hundred and twenty thousand in another part to have the same representation? Nobody. The only man who was perfectly frank and open and honest about it was a dear old side partner of mine, a venerable Republican Senator from Saratoga, Edgar T. Brackett, who, in the Constitutional Convention, openly said, "We will make no defense of it; we are going to keep it where it is because we need it for our purposes." Now, I have a great deal of respect and a great deal of admiration for a man who is frank and open and honest and is willing to stand up on his feet and say, "It is all wrong, but it serves my purpose, and until you can numerically beat me down, I will keep it."

The next part of the whereas is, "And nullification is being preached by those in authority."

That is news to me. I have no record of any public expression of anybody in authority in this State who is preaching any doctrine of nullifying the Constitution. If it has taken place, I should like to have the specifications from the Nassau County delegation. Certainly, I never preached it. In fact, I took the directly opposite view of it, and the record so far as that is concerned is completely made beyond the power of anybody to dispute it.

In the fall of 1923, President Coolidge invited the executives of the different States to lunch with him at Washington in the White House. All the different governors of the States made little speeches. Each one of them was made for the record. They were made for what the folks at home thought about the subject. And finally, there was a definite suggestion made. The whole outgrowth of the luncheon, the object that was supposed to be accomplished in a constructive way, was the suggestion that each chief executive call to the capital city of his State all of its law-enforcing agencies and warn them that the Eighteenth Amendment and the Volstead Act are a part of the law of their own State under a decision of the United States Supreme Court and that there rests upon all of us officials just as sacred an obligation to enforce the Volstead Law as there rests upon us to enforce any statute, law, or ordinance of our own commonwealths.

Well, we all left Washington. I came back here and took my duty in the matter very seriously, and I invited all the district attorneys, all the sheriffs, and all the police commissioners from all over the State. I filled the Assembly Chamber to the very doors, and I carried out exactly with all the force and power I was able to bring to my command the sentiment of the Washington conference. Six months later

I found I was one of only two governors who paid any attention to that resolution, although at the conference they spoke very loudly and very vigorously.

According to the newspapers, we are speaking about a State enforcement act. What does that mean? Nobody has ever given me any satisfactory explanation of what is meant by a State enforcement act. I know how it is interpreted by the people who have no knowledge of the real inside facts. They believe that because there is no State statute there is no enforcement. That is not so. That is not true. Now, let's face the facts. What you should say is, "Let's have an additional statute." Why? Because under the decision of the United States Supreme Court that statute, the Volstead Act, is on the law books of this State. There isn't any doubt about it. And if it isn't, why are the police in New York arresting people for violations of the Volstead Act? What is meant when you see flaring out in the headlines of the paper, "A still found in a garage in West Thirty-fifth Street"? What right have the police in there? Why is it their business, if the Volstead law isn't the law of the State of New York? They are certainly not Federal Government officials. They are policemen in the single municipality, in a commonwealth in the Union.

Now, let us see what you really want. You want to duplicate upon the statute books of the State that which is already a law of the State. If that statement isn't true, find somebody who can successfully deny it. It cannot be done. What is the difference? The difference is that without a State statute the trials for violations of the Volstead Act must be had in the Federal courts, and that is the only difference. You can sit up there in that Capitol from now until the Fourth of July and you can write all the law you like. You can give the State printer the harvest of his lifetime publishing new law, but unless there is a policeman on the

sidewalk to pick up the violator of that law, it isn't worth the paper that it is printed on. There isn't any doubt about that.

Forget that prohibition or the Eighteenth Amendment or the Volstead Act is a question for discussion in the Capitol of the State of New York. That was settled by the United States Supreme Court in 1920 when they said to the State of New York, "Keep your hands off; there is nothing you can do about it." It is not and cannot in any sense of the word become a State issue. So, therefore, we have before us, what? The question of enforcement of the law, and that is a business proposition. That is something that you pay for, and you get the degree of enforcement for every statute that you are willing to pay for. You won't get any more, and it is your business to see that you don't get any less.

Now, let's take a little look at the record. Nothing is as difficult to overcome as the printed record. Let's find out whether I have taken seriously in this State, so far as the State itself is concerned, the obligation that rests upon us to enforce the law. Before I read the figures, let me make this point very clear to you. In this State the police power is delegated. It is not reserved for use by the State except to a very limited number of State troopers whom we use for patrolling the highways in the sparsely settled sections of the State. What was the theory of the State police? The theory was that the localities in the sparsely settled sections were unable to pay for a reasonable police force and the State intervened and said, "We will supply that kind of a police force." And in order that there may be no mistake about it, in the original statute that created the State constabulary there was written a very signal provision that they had no power or no authority inside of a city unless they were sent there in times of emergency by the Governor himself. So, therefore, we come back to what I said a moment



ago, the State's police power is delegated. We delegate it to the counties by the creation of the office of the sheriff and the sheriff's deputy. We give it to the village by the creation of the village constable. We give it to the cities, large and small, by their power to set up their local police departments. The State Police is limited in numbers. But let us see how the record shows that they believe that there rests upon them a solemn duty to enforce the Volstead Act, sustaining the Eighteenth Amendment.

The Mullan-Gage, so-called State Enforcement Act, was in operation just about two years, and during that two-year period 1,130 people were arrested by the State Police for a violation of its provisions. Dividing 1,130 by 24, you get 47, an average of 47 arrests a month while the so-called State Enforcement Act was in operation. During the period of 40 months when it was not, 2,352 people were arrested for violation of the Volstead Act, or 59 a month, as against 47 a month when you had a State enforcement statute. Now, these figures are taken from the reports of the State Police Department. They can be verified by anybody.

Now, that is not the most significant part of it. The last thing in the world that I would be willing to do would be either by thought, by word, or even by insinuation, to cast any reflection upon that third independent, coördinate branch of government known as the judiciary. But I think the disposition of the cases tells its own story and I will let you figure that out for yourselves. I will call off the figures and you do the figuring. When prosecutions were had in the State courts, of the 1,130 arrested, 318 of them were discharged without a complaint even being made against them. Of the 2,562, twice as many, tried in the Federal courts, only 84 of them were discharged. Figure for yourselves where you get punishment. There is no great hardship in being arrested and fined a small fine if you are in the busi-

ness of illicitly dealing in liquor, because probably three such small fines would not amount to more than half of your excise taxes in a legalized traffic.

Enforcement of the Volstead Act is not a State question, so far as the people themselves are concerned. It is a local question. You have all the law you need. You have a statute with as much force and effect as though it were written into the statute law of the State, but every conviction must begin with arrest; and the strangest thing to me in the world is that people will come from the counties that border either on Canada or on the Atlantic Ocean, where all this stuff must come through in order that anybody in Albany can get any of it, and they seem to give no attention at all as to what the local authorities are doing about enforcement, although they have the law. As a matter of fact, the four counties that border on the Canadian border, where liquor is manufactured under governmental supervision and within the law, according to the records of the comptroller, where they must all be filed, have fewer peace officers and fewer deputy sheriffs than they had before prohibition. And, let me say to the Nassau County League of Women Voters, if there is a county in the state that needs some local police supervision over liquor, it is Nassau County.

### *Memorandum Accompanying Approval of Optional Sunday Baseball*

Governor Smith set forth his views on local option determined by the will of the majority in a memorandum issued April 19, 1919, and filed with Senate Bill Introd. 276—printed No. 581, entitled "An act to amend the penal law in relation to public sports on Sunday."

I realize that a very substantial portion of our people most conscientiously oppose permission to indulge in recreation or

sports of any kind on Sunday. I respect them for their opinions and I believe that in those opinions they are entirely conscientious. On the other hand, I know that a great many who are advocating this measure and who believe in reasonable recreation on Sunday and who consider that it is that species of rest which comes from change of thought and change of activity, are equally good citizens of the commonwealth, and their opinions are entitled to equal weight.

After a thorough consideration of the matter, I am of the firm opinion that those members of a community who oppose all recreation on Sunday, or at least recreation permitted by this amendatory bill, have no right, in law or in morals, where they constitute a minority of a community, to impose their views upon the majority who disagree with them and to prohibit the latter from exercising rights and privileges to which they deem themselves to be entitled, the exercise of which will in no wise interfere with the orderly and proper observance of the day of rest by those desiring to refrain from attending amusements.

On the other hand, this bill provides that where a majority of the community, as represented in its local legislative body, is opposed to the playing of baseball on Sunday afternoon, such amusement is prohibited in such locality. If representative government is what we claim and believe it to be, the action of the local legislative body will properly reflect, in each instance, the wish of the majority of the citizens.

The witnessing of a baseball game, either with or without the payment of an admission fee, is a most harmless diversion. It is in no sense deteriorating to the moral fiber of the witnesses. Well-to-do people can and do on Sunday pursue their amusements with entire impunity and under the protection of the laws. Our golf courses are crowded, our highways are thronged with automobilists, seeking on Sunday a change of scene and the beneficial effects resulting

therefrom. The activities of a poor man along this line are necessarily restricted by the limit of his means. It comes, however, within the reasonable reach of many to enjoy a baseball game and to obtain the rest which comes from reaction by such an outdoor, health-giving amusement.

Some such form of relaxation on Sunday is almost imperative and certainly most beneficial in the cases of that great mass of our people who during the six week days are employed in confining occupations, having during those days no opportunity for recreation of any sort. I cannot think that if the sentiment of the majority of any community, as represented by its duly elected officials, is in favor of permitting, under such restrictions and regulations as they may see fit to impose, the enjoyment of this very harmless amusement on Sunday, the rights of the minority are in anywise invaded.

I believe that before any class of our citizens should be given the right to impose its views upon this question, on which people so widely and conscientiously differ, upon those who disagree with them, they should, at least, represent the sentiment of the majority in their respective communities.

For myself, respecting most highly the opinions of those who disagree with me, I believe that the witnessing of an innocent amusement on Sunday afternoon, conducted in such manner as not to interfere with the comfort of those who are opposed to such amusement, cannot be harmful. In this belief, I propose to let the communities of this State have the right to decide this question for themselves and determine whether baseball games may be played on Sunday afternoons, and, if so, whether an admission fee should be charged.



PART V

CONSERVING NATURAL RESOURCES;  
AGRICULTURE. ELIMINATING  
GRADE CROSSINGS



## ON THE CONSERVATION ARTICLE

In the constitutional convention of 1915 Smith was the leader of the forces favoring the public development of the water power of the State. His speech on the proposed conservation article of the new Constitution points out jokers in favor of privilege-seeking private interests. The amendments which he offered were designed to prevent private interests from gaining a foothold in public bodies charged with the administration of the State's power resources.

It was a matter of regret to me that I was unable to be present on the day this proposed conservation article was reported from the Committee of the Whole to the convention for passage.

It seems to me we are setting the clock of progress, in the matter of the development of our natural resources, back at least ten years by our action. I hold the Constitution should contain nothing except the bare statement, included in the report of the State Officers' Committee, that there should be a conservation commission appointed by the Governor by and with the advice and consent of the Senate, and the make-up, membership, and the details of how that commission is to be composed should unquestionably be left to the Legislature, in order that it may deal with the new problems that arise from time to time.

There is a long history connected with this question of water power development in this State. It goes back to the year after the last constitutional convention. Beginning in 1895, it was the policy of the State, or, rather, the State lacked a policy with regard to the treatment and the develop-

ment of its water-power resources. As a result of that lack of policy, from time to time the grants of water power in the Niagara River were such that in 1905 or 1906 it was necessary for the Federal Government to step in and put its hands on Niagara Falls in order to prevent it from being despoiled by the water-power interests of this State.

At the time the so-called Burton Act was pending in Congress, it was Horace MacFarland, I believe, the president of the National Civic Federation, who made the remark that New York State's record with regard to her water powers in the past was very bad; that the State itself had jobbed out all the sacred glories of Niagara for no return or recompense whatever to the people.

An instance of how some of the grants on the Niagara River were made can be imagined from one single grant that in the terms of the contract read that the quantity of water to be taken was that which would pass through an opening or a ditch two hundred feet wide by about fourteen feet deep.

The agitation for the preservation of Niagara and the other water powers of the State was so great that Congress authorized a treaty between this country and Great Britain, limiting or holding back the amount of water that could be diverted from the Niagara River for water-power purposes. Immediately after the passage of the Burton Act and the ratification of the treaty, the water-power interests of the State turned their attention from Niagara Falls to the St. Lawrence River, and in 1907 there passed in the Legislature, and it became a law, what was known as the incorporation of the Long Sault Development Company. Under the terms and the provisions of the charter they were permitted to dam the St. Lawrence River at the Long Sault rapids. The engineers conservatively estimated that at that point in the St. Lawrence River there was capable of development a



million horse power. Under the terms of our treaty with Great Britain, five hundred thousand of that horse power belonged to the State of New York, because the boundary line between this State and the Dominion of Canada was approximately in the center of the river.

The bill went down to Governor Hughes and he hesitated to sign it. He sent it back to both houses for amendment, requiring that a certain percentage of the horse power therein developed was to be paid to the State of New York.

He was entirely without knowledge of the subject, as were a great many members of the Legislature. Nobody really dreamed at the time that there was granted to this power-development company 500,000 horse power, the return to State on which was something in the neighborhood of \$25,000 a year. Anybody who knows anything about hydraulic development can understand very readily the value of 500,000 horse power.

Now, immediately after the signing of that act, Governor Hughes realized what he had practically given away to the water-power interests, and he insisted upon the passage of a bill immediately after that which very clearly defined what was to be the future policy of the State.

Chapter 569 of the Laws of 1907 was the first declaration of public policy on the part of the State in dealing with the hydraulic development of water power. Here is the title of the act: "An act authorizing and directing the State water supply commission to devise plans for the progressive development of the water powers of the State for the public use under State ownership and control." There is the meat in the cocoanut, under State ownership and control. Thereupon the water-power interests in the State had quite a setback. They lay down quietly, and in 1913 the Long Sault grant was repealed and the Court of Appeals sustained that repeal. Now, this year the Conserva-

tion Commission was reorganized. The Governor in his annual message recommended a single head, and he recommended three experts and three divisions under that single head: first, the division of lands and forests; second, the division of inland waters, covering water-supply storage, drainage and navigation; and third, a division of fish and game. And he insisted in his message that the heads of these different divisions in the Conservation Commission be trained experts along the line of their duties.

In the first draft of that bill, this was found in it: "No plan for the storage of water or the development of hydraulic power shall be made by the commission or any of its powers exercised in respect thereof unless such a plan be approved by a majority of the members of a board consisting of the conservation commissioner, the attorney-general, and the State engineer and surveyor." Right under that there was proposed to strike out of the conservation law the eligibility of men to be appointed by the Conservation Commission. Let us read what that was. It was copied from the Public Utilities Act: "No person shall be eligible to, or shall continue to hold the office of, commissioner, deputy commissioner, chief of the commission, or secretary of the commission who is engaged in the business of lumbering in any forest-preserve land, or who is engaged in any business in the prosecution of which hydraulic power is used or in which water is distributed or sold under any public franchise," etc. That was in the first print of the bill. That language in the bill brought forth a storm of protest from all the people interested in State development and State ownership of water power; it was stricken out of the bill before it went to the Governor, and the eligibility clauses were restored with regard to the chiefs of the division and the commissioner himself. That brings us down to today. And here we are setting back the hands on the clock, tearing up the ac-

cepted State policy with regard to water power, tearing up the eligibility clause that has been such a strong and vigorous platform, and right in the fundamental law we are taking away the safeguards that have been thrown around the water power of the State since 1907, when Governor Hughes recommended the passage of that first State development act.

In fixing the duties here we say: "Subject to the limitations in this Constitution contained, the department shall be charged with the development and protection of the natural resources of the State." That is all. No mention of the well-settled and the well-defined policy of the State to develop these water powers for public use, for the benefit of the people. It is true that on lines 20 and 21 it reads: "The department shall exercise such additional powers as may be from time to time conferred by law." The power to formulate a plan for a State-wide development of water power will be again fought through both houses before the people will feel safe and secure from the water-power interests.

There is not one word of the qualifications mentioned here. The only qualification contained in the article is that they shall all reside in different judicial districts. It also says that they shall appoint and may at pleasure remove a superintendent. No mention of his qualifications. It is directly opposed to the State policy. It is, in effect, tearing out of the statute law of the State the whole conservation article which seeks to give protection to the people against the men trying to obtain control of the water power in this State without any return to the people who are really the owners of it.

Don't let any man who really believes in the conservation of our natural resources have the idea for a minute that he is helping the State with this amendment in the Constitution. Not by any means! He is taking away the centralized re-

sponsibility. He is placing the whole question in a board of men spread out all over the State. Some one said to me, "That works well in the Education Department." Of course it works well in the Education Department. The Education Department moves along without resistance. There is no organized force in this State opposed to the education of children; of course not; it is an entirely different proposition. But there is some power in this State, some place—I am unable to say where—that is interested in grabbing the water power of this State, and evidences of their activity continually crop up here and in the Senate. This whole thing is a mistake. This question should be left to the Legislature. The Constitution should not tie the hands of the government for twenty years in dealing with this great water-power question.

The terms of these commissioners expire one each year. There will be no fixed responsibility upon one man. The qualifications are removed, and I predict that no plan of any kind for the development of hydraulic power in the interests of the people of the State will ever come from a commission of nine. I think that if this house adopts this, it is a mistake and a serious mistake. If the men who wrote to the Governor meant what they said, that they were not in favor of the other plan—only six months ago—the Board of Trade and Transportation, the Association for the Protection of the Adirondacks, the State Forestry Association, Empire State Forest Products Association, and the Camp Fire Club of America—if those men meant what they said six months ago when they addressed the governor, they ought to be against this conservation article because it is in direct opposition to the present conservation plan as comprehended in the conservation law.



## WATER POWER

During a campaign, the Governor makes one speech each day, and in it he discusses one issue exhaustively. Following this custom, the Governor, in a speech at Rochester, October 18, 1926, discussed "the greatest single issue in this campaign—the development of our water-power resources."

The greatest single issue in this campaign is that of the State's policy with regard to the development of our water-power resources. In Rochester this time two years ago I spoke upon this same subject, and in the light of the developments of the last two years, it has become of increasing importance. A very apparent lack of understanding of this whole subject by the people generally has made it easy in the past for public officials who do not hold very strong views on the necessity for conservation of natural resources to turn them over to private individuals for private profit and gain.

Electrical energy is developed in two ways—either from steam generated by coal or from falling water. Without the use of a single pound of coal, electricity is now being generated at Niagara Falls in sufficient volume to light up the western part of the State, and modern means of transmission carry it to the city of Syracuse, one hundred and fifty miles away, where it is used to run the trolley cars. Power for lighting the city of Albany and for operating its railroad system is generated from falls on the Hudson River. Falling water has often been referred to as white coal. It is possible to exhaust the resources of a coal mine, but it is reasonable to suppose that water will flow on forever.

There is enough water running to waste in the State of New York today to supply electrical energy not only to our own State but to some of the neighboring States on our eastern border. Among the sights at Niagara Falls that greet the eye of the visitor, apart from the beauty of the falls themselves, are the enormous power plants fed with water carried through a tunnel from Niagara River above the falls, running night and day and turning out electrical energy. It must be obvious that electrical energy produced from water can be delivered to the ultimate consumer a great deal cheaper than electrical energy produced from coal which has to be carried on railroad trains into the State from Pennsylvania, the freight rates alone in some instances being as great as the original cost of mining the coal.

There are two kinds of water power. The first is known as firm or basic power; that is, it is generated at places where there is a steady flow of water night and day, 365 days in the year. The two resources furnishing this basic power are at Niagara Falls and in the rapids of the St. Lawrence River. The other sources of water supply are on the rivers of the State where, by the erection of dams and reservoirs, water-power development is made possible. That, however, is not firm or basic power. It is referred to as dump power and is used to carry what is known as the peak load. In other words, it supplements the firm power in the hour of greatest need.

The two sources of firm power left in the State at Niagara Falls and in the rapids of the St. Lawrence River are now the property of the State. Franchises have been given in the past to private companies for the diversion of some of the water from the Niagara River. Prior to 1905, valuable grants of power to divert water from the Niagara River were made by the Legislature to private interests with no provision for a return of any kind to the State. It is a matter

of history that such grants were so freely made that the scenic beauty of Niagara Falls was threatened because of the amount of water withdrawn from the river above the falls.

The threatened destruction of Niagara Falls became a matter of national importance and Congress, through the enactment of what is known as the Burton Act, provided for a treaty with the Dominion of Canada preventing any further diversion of water from the Niagara River. In the gorge at Niagara there is a possible development by this State, under the treaty, of 150,000 horse power. It is estimated that the cost of the power houses and machinery for this project will be thirty million dollars. The value of water power per horse power, the system by which it is measured, varies, but twenty dollars a year per horse power is a reasonable estimate of its value. The value of the water power here developed can be seen to be three million dollars a year.

The other point of firm power is at Croil Island and at the Long Sault Rapids in the St. Lawrence River. At both points there is a possible development of two million horse power. Under our treaty with the Dominion of Canada one half of this power belongs to the State of New York, so that we have here at the same price water power with an earning value of twenty million dollars per year. The estimated cost of the power houses and machinery for this project ranges between \$207,000,000 and \$230,000,000.

In the small inland rivers and streams of the State there are also power possibilities; but without the ownership of the firm power derived from the two resources I have mentioned, the inland streams are not of great value, unless supplemented by steam plants.

In 1907, the Legislature granted a charter to the Long Sault Development Company, a subsidiary of the Pittsburgh Aluminum Company, to develop the power at the

Long Sault Rapids. After the legislation was enacted, the people of the State awakened to a realization of the tremendous value of the grant given to this company for little or no return to the State. The then Governor in the very same session that passed the bill incorporating the Long Sault Development Company recommended another act, which became law, placing upon the existent Water Board, afterwards merged with the Conservation Commission, the duty of preparing a comprehensive plan for the development of the water-power resources of the State under State ownership and State control.

The Long Sault Development Company did not begin operations under the grant contained in the charter, and in 1913 a Democratic Legislature and a Democratic Governor repealed the charter and returned the water power to the people of the State of New York, to whom it rightfully belongs. So that today the balance of the possible power development at Niagara and at the two points mentioned in the St. Lawrence River is the property of the people of the State of New York. If this is alienated, the State will have turned over to private enterprise the two remaining sources of firm basic power which form the cornerstone of the whole theory of State-wide power development.

The question arises, What to do with this water power? At the opening of my speech I declared this to be one of the most important issues, if not the most important issue of the campaign, for the reason that there is a sharp difference of opinion as expressed in the two party platforms as to what policy the State should adopt. The Republican platform says :

We favor the prompt development of water-power resources of the State by private capital and management under a system of limited leases.



I might here mention that this limit has been fixed in all negotiations so far carried on by the Water Power Commission for fifty years which, in my opinion, is equivalent to giving the power resources away. The Democratic platform says:

We pledge ourselves to the enactment of laws which will guarantee perpetual ownership and control by the people of the State of the State-owned water-power resources.

The power to make the leases, spoken of in the Republican platform, has resided for the past two years in the Republican-controlled Water Power Commission made up of the conservation commissioner, the State engineer, the attorney-general, the president pro tem of the Senate and the speaker of the Assembly. Outside of talking about it they have done nothing, and I am satisfied that their inaction in the matter is prompted by a fear of the political consequences if the people should later wake up to find that this commission had alienated to those people who are seeking this power the last line of our great natural resources. The companies that have applied for the power on the St. Lawrence River are subsidiaries of the Aluminum Trust, the same people who sought this power sixteen years ago. It is a matter of history that the Aluminum Trust has had its eye on the St. Lawrence River for a great many years. Let me read to you what Theodore Roosevelt, one-time President of the United States, had to say on this subject, speaking in the city of Watertown eleven years ago:

You have in this section a most valuable asset in your natural water power. You have elected too many men in the past who have taken what belongs to the Nation. Coal and oil barons cannot compare to water-power barons. Do not let them get a monopoly on what belongs to this State. There has been a persistent effort to give private corporations control of the water

power in this country. There has been an effort to give that control to the Aluminum Trust. If the Aluminum Trust makes its money fairly, all right, but when it gets money and power by taking the natural resources of the State, it is time for us to object. Do not give up your water power for a promise of quick development. We are poor citizens if we allow the things worth most to get into the hands of a few.

This is the language of a former President of the United States and I am satisfied that if he were alive today, he could give no other advice to the members of his party, because what he said is sound and what he said is true and applies just as much today as when he said it. Strange to say, the same people against whose greed for water power that speech was directed are now, through their subsidiary companies, the applicants for the power rights on the St. Lawrence River.

For political purposes, the plan that I urged for State development has been very grossly misrepresented. In my annual and special messages of recent years, I have advocated the creation by law of a State Water Power Authority, municipal in character, having no stockholders, deriving its powers from the State and having placed upon it the duty to take over and develop the State's power resources in accordance with a plan to be submitted to the Legislature for approval by law. Such a public corporation should be given the power to issue bonds to be sold to private investors which would be exempt from State taxation and would be secured by the revenues to be derived from the improvements when made. In this way the valuable franchises which the State itself would own would be capitalized, not in the interest of private stockholders but in the interest of the public.

Under such a plan, neither the money nor the credit of the State need be pledged, and it does not mean that the State is going into the business of dealing in electrical en-

ergy with the ultimate consumer. All that is required is that the State itself shall own and control the development at its source. The ultimate disposition of the power would be a part of the plan submitted to the Legislature for approval by the Water Power Authority. There is, therefore, nothing to the contention that I am endeavoring to put the State in the business of distributing electrical energy. What I do insist upon, however, is that the land, flowage, dams, water rights, and power houses remain the property of the people of the State of New York.

In this position I am supported by no less an authority on water power than Owen D. Young, Chairman of the Board of Directors of the General Electric Company, who, speaking of the plan here outlined by me said, "I see no objection, but on the contrary I can see some advantage in the development of the great water powers on the St. Lawrence and in the gorge of Niagara by a public corporation rather than by a private corporation, and in the ownership of all lands, water rights, flowage, dams, power houses, and structures by such a public corporation."

Congressman Mills obviously has made no study of this problem but has relied for his public speeches on meaningless phrases. For instance, the Congressman says "Governor Smith desires to put the State in the business of distributing and selling electrical energy." That statement is not so. What I seek to do is retain and preserve the ownership of the source of supply for the people of the State. If I am wrong in that, then Congressman Mills should bitterly criticize Governor Miller because Governor Miller by law provided for the erection of two power houses on the Mohawk River, owned by the State and paid for with State money out of current receipts from taxes.

While I am talking to you tonight these power houses are operating; they are developing electrical energy that is

being distributed throughout the capital district. They are the property of the State of New York and they belong to all of its citizens. The State is renting the power to the Cohoes Light and Power Company and to the Adirondack Light, Heat and Power Company. Both these companies are paying the State of New York a sum of money for annual rental of the power in excess of ten per cent on the State's total investment. At that rate, in a comparatively few years the people will have returned to them every dollar that they invested and still own the power houses and control the power.

The *New York Herald Tribune* refers to my power plan as Socialistic. If my plan is Socialistic what was Governor Miller's plan? Bear in mind that I do not contemplate the use of State money. Governor Miller took from the current revenues of the State a large part of the money required for the construction of these plants and the final payments for their construction were made during my administration. If I am a Socialist, Governor Miller is with me.

What has Congressman Mills to say about the Port of New York Authority and what is the difference between the Port of New York Authority and my proposed Water Power Authority? In the case of the Port of New York Authority the great natural resources of the port, the common heritage of two States, are being developed by a joint public agency in the public interest. Congressman Mills voted and worked for the ratification of the plan by Congress. He knows full well that the proposed tunnel between Greenville, New Jersey, and South Brooklyn, New York, will be the joint property of New York and New Jersey held in trust for the two States by the Port of New York Authority. Is there anything Socialistic about that? This tunnel will be constructed with the proceeds of bonds issued by the Port Authority, a body corporate and politic, exactly



as I propose the Water Power Authority to be, the bonds issued to raise the money to be amortized and interest paid on them from the earnings of the tunnel. The economic soundness of the port plan was developed in advance when the railroads entering the port of New York from the West agreed to contract for the use of the tunnel at a given price per ton for freight carried, deemed sufficient to pay interest on the bonds and retire them at maturity.

This is exactly the plan that I have in my mind for water-power development. Let the State develop electrical energy at the source and lease it to distributing agencies at a price that will pay interest on the bonds and retire them at maturity and on such further terms and conditions as will give the ultimate consumer the benefit of the low cost of production plus the low cost of money required for development.

Low cost of money is an important factor in determining the ultimate cost of the energy to the consumer. Upon that point Mr. Owen D. Young has the following to say: "The cost of energy developed from falling water is determined very largely by the cost of capital employed in the development. A public corporation whose securities would be exempt from taxation under the Federal law and under the State law should produce, if properly set up, the required money substantially cheaper than a private corporation could obtain it."

Instead of four or four and one-fourth per cent interest on the bonds it would cost a private company in the neighborhood of seven per cent to borrow the money, and perhaps a stock bonus would be necessary to stimulate the sale of the bonds. This would materially add to the cost of producing the energy, thereby increasing the cost to the ultimate consumer.

Congressman Mills must know that all of the improvements, tunnels, inland warehouses, and trackage rights ac-

quired by the two States under the Port Treaty plan remain the property of the two States held in trust for them by the Port Authority and are to be financed entirely by the earning capacity of the improvements.

We have recently had our first actual experience in the floating of bonds by the Port of New York Authority. The Legislatures of the States of New York and New Jersey empowered the Port of New York Authority to construct two bridges over the Kill van Kull between Staten Island and New Jersey. The Port of New York Authority recently issued \$14,000,000 of bonds for this undertaking bearing interest at four and one-fourth per cent and tax exempt. They were bought up immediately by private investors and are now selling at a premium. The result is that two bridges will be constructed over the Kill van Kull that will be the property of the State of New York and the State of New Jersey. The tolls upon these bridges will be not more than is sufficient to carry the bonds and set up a sinking fund to retire them at maturity, plus the cost of maintenance, repair, and operation. If there is anything Socialistic about my water-power proposal then both the State of New York and State of New Jersey have indulged in a Socialistic endeavor when they provided for the construction of these two bridges.

Only last week I attended a dinner in honor of the one-hundredth anniversary of the opening of the Erie Canal. The Erie Canal is a business enterprise in the field of transportation. It was constructed with the money of the people of the State of New York, it is now operated as a transportation enterprise by the people of the State of New York. Does Congressman Mills suggest that DeWitt Clinton was a Socialist?

I would call Congressman Mills' attention to the Water Power Act of 1907, signed by Governor Hughes, providing

for State development of our water-power resources under State ownership and State control, which act was nullified by a subsequent Republican administration. So far I have accounted for two men, each elected Governor of the State, who have become Socialists under Congressman Mills' theory. Let me add one more very distinguished member to the party and that is former Governor Hughes. If these three governors are Socialists, Mr. Owen D. Young, the chairman of the Board of Directors of the General Electric Company belongs in our party and he also is a Socialist.

Congressman Mills has been referred to in certain quarters as an expert in government and in governmental affairs. Let me take him by the hand and lead him to Washington and tell him a few things which have taken place at the national capital on the question of water power. When we arrive in Washington I want to call his attention to Senate Report No. 654, Part I, 69th Congress, 1st Session, Calendar No. 666, which deals with the Boulder Canyon Reclamation Project, and let me call his attention to a bill in Congress entitled "to provide for the protection and development of the lower Colorado River basin." At this place it is proposed to build a dam. The Federal document first referred to contains a report of the Senate Committee on Irrigation and Reclamation. On page 7 of the report will be found an extract from the report of the Secretary of the Interior on this subject dated January 12, 1926, as follows:

Interstate and international rights and interests involved, the diversified benefits from the construction of these works, the waiting necessities of cities for increased water supplies, the large development of latent agricultural resources, the protection of those already developed, and the immense industrial benefits which may come from the production of cheap power, together appear to render the construction and subsequent control of these works a measure of such economic and social

importance that no agency but the Federal Government should be entrusted with the protection of rights or distribution of its opportunities.

Here we have a report of a Senate committee at Washington backed by the Secretary of the Interior, the Secretary of Commerce, and the Secretary of the Treasury, dealing with a large national water-power project, which actually suggests that not only shall the ownership remain with the people of the United States, but goes a step further and suggests that the power plant be built by the Federal Government with the money of the United States. How does Mr. Mills explain that Socialism on the part of his own party? Lest there be some doubt in his mind about it let me give the figures of capital investment: Cost of the dam, \$41,500,000; cost of the canal, \$31,000,000; estimated cost of a power plant at the dam, \$31,500,000; interest during construction, \$21,000,000; total, \$125,000,000. Not only is it here proposed to construct this power plant by the Federal Government, but the report suggests that it be operated by the Government and sets forth estimates of gross revenue from the sale of the power and estimates of the fixed annual charges for operation, maintenance, etc.

From all of the foregoing, it appears that the Secretary of the Interior, the Secretary of Commerce, the Secretary of the Treasury, and the Senate committee dealing with the largest national water-power project do not urge the plan proposed by the Republican party in New York State; namely, the building of a dam and the generation of power by private agencies. On the contrary, they regard the project as one essentially to be undertaken by the Federal Government itself, requiring the use of Federal money to the extent of \$125,000,000. The committee believes that this money will be repaid to the Government through the revenues to be derived from the power developed, that a ready market can



be found for this power, and that the rates to consumers can be controlled through the contracts made by the Secretary of the Interior.

This seems to be in every respect in line with the policy that I have advocated in dealing with the water power of the State of New York, except, first, that the State is to do the job instead of the Federal Government and, second, that the State itself is not to appropriate money either out of taxes or out of the bond issues. If the project is financially sound, it can be supported in the same manner as the Port of New York Authority finances its undertakings.

According to the record, it would seem to me that there is one policy for the Republican party dealing with water-power projects nationally, and another and entirely different policy when it comes to State development of water power.

If I am wrong in my proposal to deal with the State's water power, Governor Miller, the Republican Legislature, and Congressman Mills were all wrong in their treatment of the Port of New York Authority, and Governor Miller was wrong in advocating the construction of the power houses on the Mohawk River, and the Cabinet of the President of the United States and the Senate committee are all wrong in suggesting the use of public money for the development of a power plant on the Colorado River.

What is the answer of Congressman Mills to all of this? I am satisfied that I am expressing the modern, progressive thought when I say that the people not only of this State but of this country stand in opposition to the alienation of their property for private profit and for private gain. If these franchises are worth to private companies what it is claimed that they are, they are worth that much to the people themselves and in my opinion should be retained. I have set forth here a clear, distinct issue as between my opponents and myself. It is for the people to decide.

## WATER POWER POLICY

The following material is extracted from the 1928 annual message to the Legislature.

New York State is probably the richest State in the Union in natural-power resources. For years and years these have been allowed to run to waste, until the ingenuity of man devised a means of harnessing them and getting a direct benefit for the people from the power that can be generated from falling water. Today the development of our water-power resources has become a problem of foremost interest, pressing the State for a practical solution.

It is difficult to find much fault with the statesmen of earlier days of our own State, because all of our other natural resources throughout the nation received little consideration from the standpoint of their development under governmental control and ownership for the general welfare and benefit. While no definite plans were ever proposed to effect it, it is nevertheless the fact that twenty years ago this year, the first public declaration of policy for the development of water power was enunciated in the legislative act signed by Governor Hughes. It placed the responsibility on a Water Board, later succeeded by the Conservation Commission, to prepare plans for the comprehensive development of our water powers under State ownership and State control.

No plan was forthcoming until 1912, when the newly created Conservation Commission prepared a plan which did not receive legislative approval. The advent of the war but a few years later left the whole subject in abeyance.

In my first administration I adhered to the principle set

forth in the legislation of 1907 but was compelled to content myself with taking a position in favor of public ownership and public control, without being prepared definitely to state the manner and method in which the development was to take place or how it was to be financed. A strong source of opposition to it was the huge sum of money involved. There may have been good and sufficient reason in the past for opposition to any plan that contemplated the use of State money or State credit or even the issuance of State bonds for so tremendous an undertaking, but we have more recently had experience with a modern method of financing great public works without placing any burden upon the taxpayers through the medium of an authority set up by law as a body corporate and politic.

In 1921, the Legislature saw no obstacle to the setting up of the Port of New York Authority and to the approval of a comprehensive plan for the development of that port which, when carried into effect, will cost upwards of three hundred million dollars. Even more recently the Legislature did not oppose amending that plan and conferring upon the Port Authority the power to issue its bonds for the construction of bridges between New York and New Jersey, to cost more than one hundred million dollars. All of the bonds sold for the progress of this great public work have been offered to the public upon the basis of the ability of these public improvements to earn the interest and sinking-fund charges.

What is the difference between a joint undertaking like the development of the port of New York and the construction of these bridges, and the development of water power at sites now in possession of the people of the State? I see none. In fact, I am convinced that the economic worth of such development can be as easily demonstrated to prospective bondholders as can the economic worth of the developments at the port of New York. Moreover, I have such con-

fidence in this method of financing that I believe that unless and until such economic proof is forthcoming no move should be made by any authority set up by the State to offer its bonds to the public for investment.

Following, therefore, the chartered path and taking a lesson from actual experience, why should we not set up in this State a New York State Power Authority which would be a public corporation, municipal in character, having no stockholders, deriving its powers from the State and having duties specifically imposed upon it to take over and develop the power resources of the State? Such a corporation should be given the power to issue bonds exempt from State taxation and secured by the revenues to be derived from the improvements when made.

This Power Authority should be directed in the first instance to prepare a comprehensive plan for the development of our water-power resources, submitting it, with the economic proof of its soundness, to the Legislature just as the Port Authority submitted its proposals to develop the port of New York.

If private enterprise, as has been suggested, can borrow the money to develop these great resources, what is there to prevent a public corporation from doing the same thing? There are distinct advantages not only to the State but to the ultimate consumer of the electrical energy in having the public corporation do it, because it can, first of all, borrow its money at a much cheaper rate of interest, as its bonds will be tax exempt in our State. This has for its direct effect the lowering of the ultimate cost and materially reducing the fixed charges. We have abundant evidence to the effect that one of the great costs of developing electrical energy from falling water is the interest on the money required to bring about the development.



Under a State authority development, there will be no stockholders and consequently no stock bonus to be distributed with each bond. No profits will be required further and beyond the cost of the money, the cost of operation and a reasonable set-up for depreciation. Certainly, the State has nothing to lose and, in my opinion, everything to gain by the establishment of such an authority. Should it develop that they were unable to prove the economic soundness of any plan they may propose, it will remain within the power of the Legislature to reject the plan and the question will be definitely settled for all time. But before the fact is established, to alienate the resources, to lease them to private control for a lifetime, would be a deliberate and willful waste of a great God-given resource that should be developed in the interest of the people.

The question of water-power development at the present time is receiving nation-wide attention. Giant power combines naturally will stand against the proposal of a public authority, but it is difficult to be in sympathy with their viewpoint because it is purely selfish. On the other hand, there is today an insistent and growing demand for the development of these power resources by the rightful owners—the people themselves.

I think you will have to agree with me that all the talk we hear about regulation after we have parted with the sources of power is more or less academic discussion of the general principle of rate regulation. As it is, we have not been any too successful with rate regulation. Should these great power resources become interstate, as is proposed in some of the giant power schemes now planned, it is possible that we may lose our rate control over them altogether, just as we have over the railroads in the State which are now deemed by a decision of the United States Supreme Court

to be engaged in interstate commerce and therefore not subject to regulation by the State.

There is one sure way to get the full benefit of hydro-electric energy for the small storekeeper, the small homeowner, and the people on the farm, and that is to have the State retain the ownership not only of the source of the power, but of the development works. The comprehensive plan prepared by the Power Authority can deal with the distribution after study and research. It will have to be a part of the plan, which in its turn will have to receive legislative approval before it can be effective. No harm can come to the State by a trial along the same lines already adopted for other great public developments by means of an authority. Nobody can honestly and conscientiously oppose it unless they belong to that reactionary Bourbon group who are against public ownership or public development of any resource.

State ownership of power plants is not a new thing. The State at the present time owns two power plants, where electrical energy is being generated from the surplus waters of the canal. In that enterprise State money was directly appropriated for construction.

Without the cost of the dams, in one year and ten months the State received returns of nearly twenty-five per cent of the cost of the power houses. As the dams are a necessary part of the improvement and were previously built for canal purposes, their cost must be added in if we are to get a correct figure of net revenue to the State. For the same period the net revenue after adding the cost of the dams is nearly nine per cent of the total investment. How can any group of men who favored that power development turn their backs upon a proposal to permit the erection of an authority to do the same thing with money borrowed on the faith in the proven economic value of the public work to be erected?

There are but two roads upon which we can travel. There is no middle course. We must either take a chance and lease these properties for a term of years, which really means giving them away with the possible right of recapture after we are all dead and gone, with all the consequent litigation attendant thereto, or declare for ourselves at once, retaining not only our full and complete ownership of these properties but the right to make contracts at rates favorable to the real owners of the power—the people of the State of New York.

## A STATE AGRICULTURAL POLICY

*Speech at Meeting of State Agricultural Society  
in the Assembly Chamber, Albany, on  
January 20, 1920*

Coming as I do from the heart of the great metropolis, what I have to say to you with regard to agriculture will come from the mind of an individual who has spent a great many years in this building and in this chamber listening to the arguments on the different sides of the agricultural question. It was well known that during the war food was as necessary for the success of our armies and the armies of our Allies as were men, money or munitions. And the response from the farmers of this country to the call for extended production and intensive production will go down in the history of that great conflict as one of the bright pages, so far as this country's contribution to the ultimate success is concerned.

It would be impossible to overestimate the importance of agriculture and its development by our people to the last degree. We are fed and clothed from the land, and every dollar of State money that is expended for the promotion of agriculture brings back through the channels of trade a twofold return to the people of the great municipalities, who have to live on the product of the farms. As a small boy, I remember one part of Bryan's famous speech at the national convention in Chicago in 1896. He said, "Burn down the farms and grass will grow in the streets of your great city." I think that is keenly appreciated by every student of our government in this State.

When your president, an old-time friend of mine, a com-



panion in this chamber for a great many years, invited me to speak here tonight, I very frankly said to him: "Fred, if I speak before the Agricultural Society I am not going to have a speech made up for me in the Department of Education on the subject of agriculture. I am going to talk about what to my mind is a little bit of business, the business of the Agricultural Society as well as the business of the State of New York." Fred very promptly said: "Al, if there is anything at all on your chest about agriculture, and it is making you in any way uncomfortable or is causing you any personal distress, even to the slightest degree, come up and get it off." So in pursuance of that invitation and availing myself of the hospitality so liberally extended, I want to get this off my chest.

As the Governor of the State I am personally dissatisfied with the present organization of the agricultural interests in this State. By that, I mean that I am not satisfied with the regency idea as attempted to be carried out by the Council of Farms and Markets. I do not believe that it is successful. I do not believe that it is doing for this State what could be done for it with a similar appropriation. I believe that our agricultural interests will best be promoted by a single, responsible head. I would look to a commissioner of agriculture in this State as being probably next to the commissioner of education the most important single official in the whole State, and if we can afford to pay a Public Service commissioner, of which we have to have five to make up a board, a salary of \$15,000 a year for the regulation, the very meager regulation that the law permits him to exercise over public service corporations, we certainly can spend \$20,000 or \$25,000 for the biggest agricultural expert that this country has, put him at the head of the agricultural interests of this State, and give him some power along with some responsibility.

There is nothing very radical about that. It was the accepted procedure in this State for a good many years, and under certain commissionerships it was highly satisfactory. The theory of creating a regency, as I was informed, was to take it entirely out of politics. What was meant by that was that there would not be a shift in commissioners every time there was a change of governor. But I am afraid that the operation was not entirely successful. I think it went just a little bit further into politics, but unfortunately it went so far in as to relieve any individual of any responsibility for what is taking place.

We have an elaborate regency of very good men. There is not any doubt about that. Stand them here on the Assembly floor, and representing the various judicial districts of the State, they are probably the foremost in their districts, but you cannot carry any job to a successful conclusion that is handled by six, seven, or ten men. We have been all through that. The government has been through it. We had the lesson brought home to us with a great deal of force during the period of the war. When we were fighting we had to bring to our men the very best that we had, and invariably that led us to the idea of a single-headed responsibility, one man you can look to, whom you can hold responsible; and consequently give him responsibility and power.

The law as it reads today attempts to give certain power to the commissioner of agriculture, to the chief of the division of agriculture and the chief of the division of foods and markets, but all that power in the last analysis is exercised through the council.

We have developed here in Albany a wonderful bureau of investigation, absolutely lacking initiative, which is the one great thing we need, the one big thing the State desires, the one thing that you can expect from a single, responsible commissioner and that you will never get from a council of

this kind. It is idle talk to say you can erect a regency over agriculture as you do over education. There is nobody pulling against education in this State. It is an entirely different subject. It is another matter. If you want to find some way of perpetuating a good commissioner when you get him in office, either elect him by the people for a long term, or have him elected, if you please, by the Legislature for a long term. If you get the right man it makes very little difference how you get him.

In the last analysis, when all is said and done, the regency over education is wholly an advisory body, and the real moving spirit after all is the single-headed commissioner of education controlling his deputies in the various activities of that great department. I would have the commissioner of agriculture be the man who would have something to say about the appropriation of every dollar of State money for agriculture in this State. The present council has not got it.

You have a number of agricultural schools spread out all over the State, their management resting in the hands of their respective boards of managers. No coördination whatever, separate and distinct agencies all operating according to their own notions and their own ideas, removed entirely from any central authority or power, in many instances resulting in constant quarreling between the manager and certain of the directors as to procedure. Particularly is that noticeable in the school at Farmingdale.

In the budget of 1920, I have recommended for agricultural schools, including the Experimental Station at Geneva, \$2,159,730. That is a very generous and a very liberal appropriation. There is no one in this State who controls it after it is appropriated.

I would have the State Fair come under your commissioner of agriculture. That is where it rightfully and properly belongs.

I would have a Bureau of County Fairs within the Department of Agriculture, and I predict that unless that is done, in a short time your county fairs are going to lose all the semblance they ever had of educational institutions so far as agriculture is concerned. Now, I would be the last man in the world to say the children of the countryside are to be deprived of that week of amusement. The \$250,000 appropriated by the State to the various county fairs is well spent if it serves no other purpose except a week of recreation for women and children in the country, but they could attend, and agricultural education could retain its place at the fair just the same. There is no reason why the horse race and the performing bear and the frankfurter man should be the whole show. They have their places, but until you have intelligent direction in your county fairs, you are wasting time and money so far as education is concerned, so far as any effort on the part of the State for the promotion of agriculture is concerned.

When you take the Department of Agriculture and the Department of Markets out of politics you will find that the heads of the bureaus will be men with some peculiar qualifications, some peculiar training either in experience or education, to man these bureaus. Is that the case today? Everybody in this room knows it is not. There is no use fooling ourselves about it. If I were asked what I would do about it, I would say this: That if the Legislature is willing, I will stand for a lump sum appropriation made to the Department of Agriculture for its reorganization from top to bottom and allow some men who understand the business to reorganize that big department and let us have some confidence in it. Let us be willing to leave with them the State's money for that reorganization; and let me make the prediction that if you don't do it you are just continuing a cum-



bersome machine in the government of this State that will never get anywhere.

For personal service alone in the division of agriculture, there are requested for the next fiscal year \$392,000, with 217 employees. In the division of foods and markets, with 105 employees, there are requested \$205,530. Too much of that sum is being spent in the gathering of statistics. Too much is being spent here in Albany, too far away from the farms, too far away from the interests it is calculated to help and calculated to promote. Too much of it is political salary. That is my main complaint about it. The total budget for agriculture for the fiscal year beginning next July is \$3,155,420.80, and I have just to make this simple observation before I close. Under the present form of organization it is absolutely impossible for this State to get full return for that appropriation. It cannot be done.

I feel that it would be improper for me to take any more of your time this evening. While I am in this Capitol building you can make up your mind that I will do the very best I possibly can, and I want to leave in your minds the final thought that there is nothing personal about it with me. It makes no difference to me whether I appoint any commissioners or not. I could have appointed five of them in New York at \$15,000 a year and because I thought I was going to help the city, I reduced it to two. I am asking for what I think will better the agricultural interests of the State and better the public and consequently better the State itself.

### *Excerpts on Agriculture from 1928 Message*

Agriculture is the basic industry of the State. It is not only fundamental to all other industries, but it is a big and important industry in itself. Three-quarters of a million

of our people live on the farms of the State and they employ a capital, in farms and equipment, of approximately two billions of dollars. Two-thirds of the area of the State is in farm lands. While New York, among the other States, is only twenty-ninth in total area, and twentieth in area of land in farms, it stands eighth in the total of agricultural production. It is first in the production of potatoes, hay, sweet corn, and many other vegetables. It is second in dairy products, apples, grapes, and in total value of all vegetables. New York may well claim to be a leading agricultural State.

In all the dislocations brought about by the Great War, no group of workers within the State has been more grievously affected than the men and women living upon the farms. As a result of the agricultural depression following the war, there was a net loss, in the ten-year period ended December 31, 1927, in the agricultural population of the State, of 141,000 persons. There is reason to believe that the bottom of the agricultural depression in this State was touched in 1925, and signs are not lacking that encouraging progress is being made in the necessary re-adjustments to accommodate agriculture to post-war conditions.

In New York, we have over eleven million people. Upwards of seven millions of them reside in five cities on the line of the Hudson River and the Erie Canal, from tidewater to Lake Erie. In addition, we have thirty-five cities and 528 villages. For their food and clothing the people in the cities rely upon the farmer, and the promotion of the interests of those who till the soil is certainly of vital concern to the government of the State. Both national and State policies should be molded to insure equality of opportunity and reward between those groups which produce the food and those which consume it.

Since 1918, this State has put into effect a far-reaching program to cheapen marketing costs, to decrease marketing

risks, to improve marketing methods and, in general, to facilitate the distribution and sale of New York farm products for the ultimate benefit of its farmer producers, and its city consumers as well. The functioning of this program has been an important factor in modifying in this State the severity of the agricultural depression which affected some of our sister States so calamitously.

A State fails in its duty to agriculture which merely enforces the regulatory statutes related to the safeguarding of its food supply. The State, by wise and prudent policies, should foster and upbuild agriculture and consider the full well-being of those engaged in it. This New York State is doing. Among other things, the State, by liberal appropriations, is improving its system of rural schools and is also equipping its rural youth with a knowledge of the science of agriculture. Equal opportunity for the education of their youth, so generously afforded to city dwellers, must also be presented to the farming community. The strength and the comfort that public health measures bring are the concern of the State for the people on the farm equally as for the people in the densely populated sections.

Health and education are treated in other sections of this message, but here and now let me recount some of the progress we have made in the field of promoting and protecting agriculture in the past ten years.

In 1920, I appointed a commissioner, under the so-called Moreland Act, to make a thorough investigation and report upon the operations of the Council of Farms and Markets, charged in the first instance with administering all the affairs of agriculture in this State. His report showed the department to be in a deplorable condition. Under the absurd system of an administrative department controlled by the Legislature and removed from the Governor, it was permeated with politics, and appointments to key positions were made,

not on the basis of knowledge or ability, but for political considerations. This report was presented to the Legislature in 1920 and, as a result, the statute governing the department was drastically amended in 1921. The department was overhauled, authority was centralized in a single commissioner, instead of two, as had been the practice, and the present Commissioner of Agriculture and Markets was placed at its head. Yet, strange to say, the reorganization of the government having for its purpose centralization of responsibility for the government left this important department entirely out of the control of the Governor. This was necessitated by the insistence of the legislative leaders that the present regency over agriculture be continued.

In the rehabilitation of agriculture, following the depression brought about by the war, a sound State marketing program is vital. The ten-year period from 1918 has witnessed a great development of service functions by the State, such as issuing marketing reports by press and even by radio, aiding the organization and operation of coöperative associations, the inspecting and certifying of grading of farm products at shipping points. These and other similar services have placed New York in the front rank among States having a sound State-aided program for marketing improvement. The city end of the marketing program has also received attention. One of the most important pieces of work now being carried forward is the State-wide study of city food-handling problems, and the development of regional planning of food-handling facilities. Special aid is being given to individual cities in planning modern terminal and farmers' markets which will enable them to perform their proper function in the regional plan and to take full advantage of the new era in the supplying of food to our cities ushered in by the modern highway and the motor truck. This project at once offers the possibility of lower living



costs to those in our cities and at the same time offers a better and increasingly important outlet for the products of New York State farms.

One of the great factors in the promotion of agriculture in this State is its good system of State roads. As shown in another part of this message, we have not only supplied the means of proper transportation by modern highways, but we have made annual appropriations to the towns and counties for the upkeep and maintenance of their roads in order that we may have feeders from the farms to the main highways.

New York for years, through its legislative policy, has consistently supported coöperative enterprises, not only among farmers, but among consumers as well. In 1926, various coöperative marketing acts then on the statute books were combined into a single comprehensive model Coöperative Corporations Law. There is probably no other State which has placed on the statute books such adequate and complete coöperative marketing legislation as has New York during the ten-year period since 1918.

The progress of the coöperative movement in the State is indicated by the fact that while in 1918 there were but seventeen active coöperative associations, there are now approximately 1100 active associations doing a combined annual business totaling more than \$115,000,000. Forty-five distinct and different activities are being carried on by such associations. There are marketing associations operating successfully in the handling of nearly every farm product grown by New York State farmers. There are buying associations which supply the farmer members with everything from fertilizer to groceries.

Because New York stands second in the whole country in the dairying industries, the reduction of the number of tuberculous cattle was one of the important problems con-

fronting the agricultural interests of the State. In 1918, New York State was grouped with those States which had the largest proportion of tuberculous dairy herds. In that year there were more tuberculous animals in the herds of New York State than of any State in the nation. As late as 1921, there were in the State only 123 accredited herds, representing a total of less than 4,000 animals. In November of 1927, there were 43,120 accredited herds, with a total of over 400,000 animals.

Of the 940 townships in the State, 537 have had their herds completely tested. In no less than seventeen counties of the State, all of the cattle have been tested at least once for tuberculosis. This means that approximately sixty per cent of the herds of the State have been tested. The immensity of this task is difficult for the lay person to understand. Some idea of the size and enormity of the task may be gathered from the fact that in the fiscal year ended June 30, 1927, 815,746 animals were tested for tuberculosis, and 67,631 animals condemned and slaughtered as the result of the testing, compared with 63,963 tuberculous animals condemned and slaughtered in 1926, and 53,431 in 1925.

Inasmuch as the State indemnifies the owners of tuberculous cattle, the cost to the State of the elimination of so large a number of animals is enormous. Beginning in 1923, we appropriated five million dollars for that purpose, and since then we have averaged annually over three million dollars. In the past five years, the State has expended for the suppression of bovine tuberculosis in excess of twenty million dollars. This is the largest sum expended by any State in any period for the control of bovine tuberculosis, and is probably the largest sum that any State has expended in the same length of time upon any disease-control project.

In 1918 the tests showed an average tuberculous infection of twenty-eight per cent. This has been steadily reduced until

in 1927 the percentage of infection is shown to be twelve, which means that the number of infected animals has been cut in half. We have reason to look forward to the day in the not distant future when New York, which a few years ago was at the bottom of the ladder, will be at the very top in the quality and health of her cattle.

We have appropriated generously for the State College of Agriculture at Cornell University, and for our secondary schools of agriculture located throughout the State. This year from bond money we will make available \$1,200,000 for the completion of the much-needed Plant Industry Building of the State College of Agriculture at Cornell University.

We should always have in training enough young people who desire to make farming their vocation, and to carry it on in a scientific and modern way. From this army of trained young men and women will be recruited the leadership which will make it possible for this State to maintain her place among the important agricultural States of the Union.

By adequate appropriations, we have maintained at its highest point of efficiency the annual State fair for the promotion of agriculture. During the past ten years substantial increases in the physical facilities of the fair grounds at Syracuse have been made. Notable in this connection is the erection of the Coliseum, in 1923, at an expense of \$500,000. Because of this new building, it was possible, in 1923, to secure the rare distinction of having in this State, at the same time, the National Dairy Show and the World's Dairy Congress, which brought to Syracuse the leading dairy scientists from the countries of the world. Another important improvement was the erection, in 1922, of the Sheep and Swine Building, at an expense of \$125,000. Other capital outlays during the ten year period aggregate nearly \$400,000.

## ELIMINATION OF RAILROAD CROSSINGS AT GRADE

### *Special Message to the Legislature, 1924*

The argument set forth in the special message to the Legislature under date of March 3, 1924, on elimination of railroad crossings at grade, became the basis for the Bond Issue Referendum approved by the voters in the election of 1925.

Hardly a day goes by in which some gruesome accident at a grade crossing involving death and injury is not reported. This situation grows worse every year as traffic increases. The number of fatal grade-crossing accidents reported last year was the greatest in the history of the State.

Last year, upon my recommendation, you appropriated \$1,000,000, divided equally between the Public Service Commission and the Transit Commission, toward paying the State's share of the cost of grade-crossing eliminations in the fiscal year 1923. Recently these two State departments presented their annual reports on grade-crossing eliminations and have asked for substantial appropriations for the coming year. I have considered these reports and the report of the State Department of Public Works on the same subject, and I have consulted with railroad officials and others. As the result of these deliberations, I am convinced that the present State program for grade-crossing eliminations is entirely inadequate.

In order that you may visualize exactly what is the trouble with our present grade-crossing elimination machinery, I call your attention to the following table which shows the progress made by the State in eliminating the Forsyth cross-



ing, at which the wreck of the Twentieth Century Limited occurred on December 9, 1923. It will be remembered that nine people were killed in this wreck, and that thirty were injured. The wreck was due, in the first instance, to the stalling of an automobile at the Forsyth crossing. The Twentieth Century crashed into the automobile, and this led finally to a collision in which the third section of the Limited crashed into the second section. The questions of just how the automobile happened to be stalled, and how the trains happened to collide, and who was immediately responsible, are of no great significance, compared to the greater question of why the grade crossing should have been left at Forsyth one year and a half after its elimination had been actually ordered by the Public Service Commission.

The petition for the elimination of the Forsyth crossing was filed on January 4, 1922. The case on the Public Service files is known as "Elimination Case No. 471." The history of this case follows:

January 14, 1922—Petition, dated January 12, 1922, filed by State Commission of Highways, asking for a determination as to manner in which Forsyth crossing should be eliminated.

January 24, 1922—Notices of hearing to be held on February 7, 1922, mailed to interested parties (10 days' statutory notice required).

February 7, 1922—Hearing held in Buffalo. Adjournment of six weeks taken to permit plans to be developed.

March 21, 1922—Hearing held in Buffalo.

March 28, 1922—Assemblyman McGinnies, on behalf of property owners, asked consideration of two additional adjacent crossings not subject to jurisdiction of State Highway Commission.

April 25, 1922—Further hearing to enlarge proceedings and to take testimony respecting additional crossings.

June 14, 1922—Hearings closed on record. Matter held until this time pending decision of Appellate Division in *Kirk*.

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wood case respecting power of commission to make order.  
June 14, 1922—Elimination ordered.

September 12, 1922—Attorney for New York, Chicago and St. Louis Railroad Company wrote Commissioner Pooley stating he would like to make application for rehearing in order that proof might be offered to support "contention of the company that the abutment should be placed southerly at the right-of-way line, etc."

October 2, 1922—Petition for rehearing filed.

October 25, 1922—Rehearing held in Buffalo.

November 18, 1922—Brief filed by New York, Chicago and St. Louis Railroad Company.

November 25, 1922—State Commission of Highways expressed desire to file brief.

January 9, 1923—State Commission of Highways asked to file brief.

January 12, 1923—State Commission of Highways informed commission that attorney-general had been requested to expedite preparation of brief.

January 25, 1923—Attorney-general advised commission that he had concluded not to file brief; that State was satisfied with original order.

February 2, 1923—Report of hearing and proposed order filed.

February 7, 1923—Order denying application for modification of original order made.

April 6, 1923—Notice of appeal to Appellate Division, Fourth Department, made by Locke, Babcock, Spratt & Hollister, Attorneys for New York, Chicago and St. Louis Railroad Company.

April 18, 1923—Notice served on commission.

October 3, 1923—Attorneys asked when they proposed to argue case.

October 11, 1923—Attorneys replied that they expected to argue case in term beginning November 13, 1923.

November 24, 1923—Mr. Spratt, attorney for railroad, died suddenly.

December 10, 1923—Attorneys asked when they expected to argue case.

December 12, 1923—Attorneys replied they expected to argue case at term beginning January 2, 1924.

This case shows clearly the delays and obstructions in the elimination of dangerous crossings. The recent annual reports of the Public Service Commission and Transit Commission afford further illustrations along this line. It appears from the Transit Commission report that recommendations to determine the crossings to be eliminated in 1923 were not made until October 25, 1923, and that hearings on these recommendations are still to be held. It should be borne in mind that the supplemental appropriation bill, carrying an appropriation of \$500,000 for the State's share of grade crossing eliminations in New York City, was signed by me on May 22, 1923. The report of the Transit Commission indicates that part of the delay was due to the fact that the State did not appropriate more money, a conclusion which does not seem to me to be very convincing. Similarly, in the case of the Public Service Commission, there were months of delay before the appropriations made last spring were put to use, and the chances are that all of this appropriation will not actually have been expended until January 1, 1926. Apparently the procedure in the Public Service Commission, after an appropriation is made by the State, is to wait until the railroad, the governing officials of a locality, or the Public Works Department present a specific elimination project. The Public Service Commission has no such thing as a program of grade-crossing eliminations; it simply has general figures to show that there are over 8,000 grade crossings in the State of which about 4,000 ought to be eliminated. The order of importance of these eliminations and their cost are apparently matters of conjecture.

I do not wish to give the impression from the above statements that the entire or even the major responsibility for the failure to make greater progress in grade-crossing eliminations rests upon the Public Service Commission and Transit Commission: this is far from being the case. The fact of the matter is that at best no substantial progress toward eliminating the 4,000 or more dangerous crossings in this State can be made until the railroads and localities have sufficient funds at hand to meet substantial State appropriations from a bond issue. The Public Service Commission estimates that the average cost of eliminating a grade crossing is \$100,000. Multiplying this by 4,000 gives us a total of \$400,000,000 required for eliminations as reported by the Public Service Commission. The Superintendent of Public Works reports that he believes the rate of \$100,000 per crossing to be too high and that the estimated number of crossings which should be eliminated as distinguished from those which require protection is too high; but as the Public Service figures do not include crossings on electric railways nor crossings in New York City, estimated by the Transit Commission to cost \$50,000,000, the final figures cannot be far from correct. The State's share of the cost of elimination on this basis, as now provided by law, is \$100,000,000, the share of the railroads \$200,000,000, and the share of the municipalities \$100,000,000. Some conception of the size of this pressing problem can be gained from these figures.

At the present time most of the railroads are in no position to finance such a comprehensive grade-crossing elimination plan, no matter whether grade-crossing eliminations are regarded as a capital expense or an operating expense. Similarly, a great many municipalities are face to face with the constitutional debt limit. There is no cure for this situation except in a constitutional amendment which will permit



the lending of the State credit to railroads and municipalities, so that their share of the cost of eliminations may be financed in the first instance by the State, which will thereafter be repaid in annual installments for interest and sinking funds on the bonds in the same proportion that railroads and localities now contribute to grade-crossing eliminations. In the last analysis this means that while the State lends her credit, she pays only the twenty-five per cent share of the elimination as now provided by law, and does it with the proceeds of bonds rather than by annual appropriation from the current revenues of the State. This, it seems to me, is sound from a business standpoint, because the grade crossing elimination is a permanent improvement destined to outlive the bonds.

In addition to the absence of railroad and municipal funds, another great obstacle in grade-crossing eliminations has been the absence of a single State authority to plan and administer eliminations with all the power behind it that the State can give to enforce orders and eliminate delays. No one who has any understanding of the State's administrative machinery can escape the conclusions that the Department of Public Works is the State agency which should plan and order grade-crossing eliminations and see that the plans are carried out, at least so far as territory outside of New York City is concerned. This department has nine divisional highway engineers who are in touch with all the grade crossings in their divisions on county and town roads, as well as State and county highways. It is ridiculous that these men should be in a position to make recommendations as to some crossings only and not as to others, and that they should not be called upon to put their knowledge of the entire grade-crossing problem at the service of the State. I believe that the entire responsibility for preparing, ordering, and supervising a complete grade-crossing elimination program for

the territory north of New York City, indicating the order and importance of the eliminations and their cost, should be placed squarely upon the Department of Public Works where it belongs. To this department the State appropriation from bond issues for grade-crossing eliminations should be promptly made. Since a constitutional amendment is necessary in order to extend the State credit in this field, I propose that this constitutional amendment shall also put behind the grade-crossing elimination the greatest possible power that can be given to the State to eliminate delays and to require the railroads to carry out elimination orders. We do not tolerate long delays in removing menaces to health. The menace to life and limb in grade crossings is no less important.

### *Three-Hundred-Million-Dollar Bond Issue for Eliminating Grade Crossings*

The following material on grade crossings is extracted from the address of Governor Alfred E. Smith at the Staten Island Coliseum, October 27, 1925.

Now let us talk a little bit about the grade crossings. Staten Island has a peculiar and particular interest in this proposed amendment because I think everybody in this hall will agree with me that railroad operation at grade on Staten Island has helped to retard its growth.

The total cost according to the Transit Commission for the elimination of grade crossings in the Borough of Richmond is \$111,000,000.

Now let us see how soon we will get them removed by the present way of doing business. Beginning in 1898 and up to date the State has succeeded in eliminating just 400 grade crossings in the State of New York—400; and there are 4,000 dangerous ones. The figures happen to break even.

Multiply 28 by 10, and you will find that under our present procedure we will have them all eliminated in 280 years.

Why? Why is that? Very simple. We have no plan. We are unable to have a plan because we have not the funds to finance it, and in some instances neither the locality nor the railroad is in possession of the finances necessary to carry out a plan.

What is the proof of that? The proof of it is to be found in the appropriation bill of 1925.

Under the Constitution of the State, all money not expended within two years after its appropriation must be re-appropriated or it will lapse back into the general fund of that State. So we find in 1925 we reappropriated \$1,000,000 that the State appropriated in 1923.

Now I said a moment ago that in some instances the railroads and the localities are unable to meet their share of the cost of elimination. It is to overcome this that the proposal to amend the Constitution is being offered to the people.

This could have been put in the shape of a proposal to bond the State, but the salutary part of this amendment is that it enables the State itself to extend its credit to the locality and to the railroads, where they are unable to meet the costs, providing that the railroad and the locality meet the charges for carrying the bonds, interest and amortization, and while the amount looks big—while \$300,000,000 is a rather staggering amount of money, you must bear in mind that only \$75,000,000 of it ever becomes a charge against the people of the State of New York. The balance is charged against the locality, twenty-five per cent; twenty-five to the State; and fifty to the railroads.

So that after all the bonds are amortized, the railroad systems of the State will have carried \$150,000,000 worth of it.

Now there is scarcely a day passes that you cannot pick up a newspaper and read the awful details of some railroad accident.

The growth of our small cities and of our villages out around the railroad tracks, plus the almost universal use of the automobile, has made every one of these grade crossings a menace to life and a menace to prosperity; and if we understand aright the supreme function of government to be the preservation of life and of property, this is the way to accomplish it. This is the only plan. It is the only way that ultimately all of these death spots throughout the length and breadth of the State can be finally eradicated.



PART VI  
MISCELLANEOUS



## SELECTIONS FROM LEGISLATIVE APPROVALS, MESSAGES, AND LETTERS

A brief selection has been made from legislative approvals, vetoes, and messages, and from letters.

### *Approving a Forty-Eight-Hour Bill for Women and Children*

March 30, 1927.

Memorandum filed with Senate Bill, Int. No. 1030, Print No. 1132, entitled:

“An act to amend the labor law, in relation to the hours of labor of women and female minors.”

APPROVED.

This bill, providing for a forty-eight hour week, has been before the State of New York for at least fourteen years. I have advocated it in my annual and special messages since I first took office as Governor. It has been the subject of investigation, debate, and bitter political controversy. This bill in one form or another has repeatedly passed one house of the Legislature, only to be defeated in the other house by as narrow a margin as one or two votes. On at least two occasions the Assembly defeated this bill by one vote under circumstances which were the subject of State-wide comment. The principles of this bill have been denounced and it has repeatedly been called unworkable. Last year when it became apparent that the public would no longer tolerate a delay in adopting this beneficial measure a legislative commission was appointed to investigate this subject along with several others affecting labor and workmen's compensation,

and the commission reported in favor of the forty-eight-hour bill with certain exceptions. Some of these exceptions and reservations might in my opinion better have been omitted, but the principle is established and the bill provides a substantial part of what many people of the State have been contending for for years.

My only source of regret in approving this bill is that its benefits should have been withheld for so many years for no good reason, and that this general welfare act should needlessly have become the subject of political controversy.

(Signed) ALFRED E. SMITH.

### *Too Much Law*

March 3, 1927.

To the Assembly:

I am returning herewith, without my approval, Assembly Bill Introductory Number 469, Printed Number 476, entitled:

“An act to amend the conservation law, in relation to angling.”

In my annual message of this year under the subject of Conservation, I said the following:

Year after year the Legislature is flooded with bills fixing by law the size, condition, manner, method of, and the season for, the taking of fish and game of all kinds within the State. It is a deliberate waste of the time of the Legislature. Why not pass a general law conferring authority upon the conservation commissioner to fix these matters entirely by rule and regulation rather than have the time of the State taken up in fixing them by law? At the last session more than fifty bills were sent to the executive dealing with the size of lobsters, the size of fish, the manner and method and time of taking them, all of which received executive approval or disapproval upon the



recommendation of the conservation commissioner. Why not let him pass upon the whole subject in the first instance and save the State of New York the expense and annoyance of writing these rules and regulations into the statute law of the State?

Up to this writing no action has been taken upon this recommendation and the bill in question is a good example of the senseless operation of regulating this whole question by law. Under the present law, a person may fish by a hook and line in hand or a rod in hand not exceeding two lines with or without rod to one person and not exceeding fifteen hooks to a line. The time of the Legislature and the Executive Department is taken up by an amendment to this law to provide that in Lake Keuka a line may have not to exceed seven leaders and on each leader not to exceed three triple hooks.

It is not sufficiently important to the State of New York or its conservation policy whether or not in a given lake there may be an extra hook on a fishing line. Nevertheless, the time and money of the people of the State of New York are both used up in the passage of an amendment to the law that will enable our citizens to put an extra hook on a fishing line in Lake Keuka. To my mind, the thing seems so silly that I am unable to bring myself into a position where I can accept the bill. I am entirely unwilling to glut up the statute books, pay the necessary money for printing and advertising the amended law, and add to what ought to be a simple rule or regulation the dignity and majesty of law. If this is a desirable thing to do, let the conservation commissioner do it. There is nothing before me that indicates in the slightest degree that the fish will bite any better when the extra hook is added to the line by law.

(Signed) ALFRED E. SMITH.

*Ten Years of Educational Progress*

Extract from the Governor's annual message of 1928, reviewing educational legislation and progress in strengthening the public school system during his administrations.

Written into the fundamental law of the State by the people is a mandate to the Legislature to provide a system of free schools in which all the children of the State are to be educated. How well we have performed this solemn duty is best shown by a scrutiny of the facts. They disclose in unmistakable terms that since the close of the World War we have witnessed a greater progress in this field than the State has ever experienced in any similar period in the development of our educational program. In my first annual message to the Legislature, I stated that "the industrial efficiency, the economic soundness, and the civic righteousness of the State very largely depend upon our educational system." During the years that have passed, there has at no time arisen any reason for changing this plank in our educational platform. In recognition of the soundness of this philosophy, many steps have been taken looking toward the development of a much more effective educational program, and the strengthening of the service which the schools of the State may render to the children of the commonwealth.

Ten years ago there was expended for education in the State, both by the State itself and by the various municipalities and civil divisions thereof, about eighty-three million dollars. In 1927, that amount has been increased to two hundred and ninety million dollars. The contribution by the State to the localities has been increased ten times, or from seven millions of dollars to seventy millions.

The growth of our educational system and the attention

we have given to a proper financing of it can best be realized by a glance at the figures:

Year	Total cost of public education to the State and localities combined	Amount contributed by the State in aid of localities during each year
1917-18 .....	\$83,682,747	\$7,033,555
1918-19 .....	92,334,179	7,424,440
1919-20 .....	108,596,912	12,864,463
1920-21 .....	167,783,766	33,856,117
1921-22 .....	188,604,973	35,833,018
1922-23 .....	210,563,601	37,746,051
1923-24 .....	250,553,601	39,539,585
1924-25 .....	283,506,175	41,402,497
1925-26 .....	257,672,042	43,134,000
1926-27 .....	*290,000,000	*70,000,000

\*Estimated.

Among the outstanding features of the development of our school program during this period are increased compensation for the teaching staff; the development of our teacher-training program in the State normal schools, so that at the present time our professional teacher-training institutions are among the best schools of this character in the country; the extension of vocational, industrial, and continuation schools, which offer greatly improved educational opportunities to those preparing for industrial service or for those who must for economic reasons enter the working world before their education is fully completed; the extension of high-school facilities to the youth in both urban and rural communities, as is illustrated by the fact that our high-school population has doubled during this decade; the establishment of central rural schools in over forty communities throughout the State, whereby greatly improved educational opportunities are made available for the children in rural communities more comparable to the educational op-

portunities in our villages and cities; a recognition of the fundamental principle that the wealth of the State should be back of the educational program of the State, and in accordance with its policy, adoption of an equalization program with larger State aid to those communities where the financial burden for the support of schools is especially heavy; also recognition that our State Department of Education is a major activity of our State government, which has been recognized through gradually increasing support for the various functions which by the Constitution and by statutory authority must depend for effectiveness on the efficiency of this department.

The large increase in the total cost of schools during the past decade has been due to several factors, the most important of which is the more adequate compensation that is now given to teachers for the great service which they render in the training of youth. The average salary of the teachers in the rural and village communities of this State in 1918 was \$587, while in 1926, the last year for which this information is available, the average salary of these teachers had been raised to \$1,297. The average salary of all teachers of the State, city, village, and rural, in 1918 was \$1,023. In 1926, the average salary of all teachers had been raised to \$2,046.

While as a State we are proud of what has been accomplished in this direction, we have by no means reached a standard which is adequate for this important and vital service. May I quote again in this matter from my first message to the Legislature:

The most vital force in the schoolroom is the teacher. The highest standard of qualifications consistent with prevailing economic and financial conditions should be insisted upon. The efficiency of the school cannot rise above the standard of quali-



fications set for the teaching service. To bring about the high standard teachers should be adequately paid and fairly pensioned . . . I strongly recommend that whatever curtailment may be necessary elsewhere, full and adequate provision be made for the education and training of our children.

The total inadequacy of teachers' salaries was so generally acknowledged that the first steps in increased State aid for schools in 1919 and in 1920 were taken in this direction. Recognizing that the State's share in the support of public education was relatively small, and that New York occupied a relatively low rank at that time among the States in this respect, the increase in salary schedules was made possible through increased State aid. For this purpose the Legislature in 1919 appropriated an additional sum of \$5,300,000, which raised the school funds from over \$7,000,000 to nearly \$13,000,000.

This constructive step resulted however in an average annual increase of only \$100 in the salaries of the teachers of the State. Living costs of every character had greatly increased and the purchasing power of the dollar was rapidly on the decline. As a result of further extended conference and study, I was happy to recommend to your honorable bodies in 1920 the most constructive teacher-salary measure ever enacted in this State, the teachers' salary law which levied a State tax of one and one-half mills on all taxable property and appropriated the proceeds thereof, approximately \$20,500,000, for the purpose of aiding the cities and districts in paying the required increases in teachers' salaries. In the same year the salaries of the teachers in the State normal schools and in the State College for Teachers were increased, and new legislation strengthened the administration of the State Teachers' Retirement Fund.

The increase, a necessary increase, in school costs within

the past few years has made the problem of school support particularly pressing in the cities of the State exceeding 100,000 in population, where the Constitution puts a limitation on the power of taxation. The State has also recognized the inequalities resulting from the wide differences in valuation between the more wealthy and less-favored communities. We have also recognized that with the continuing increase in school costs additional State subsidy is essential. In order that every possible consideration might be given to varying needs in connection with the financing of the public-school program and to the vital problems in connection with city-school finance, a special committee was appointed, consisting of twenty-nine men and women representing various educational and civic groups, known as the Friedsam Commission, which rendered most constructive service in the recommendations which it made, and which I immediately transmitted to the Legislature.

After careful consideration by the Legislature of 1926, the Legislature of 1927 enacted into law the financial bills as recommended by the Friedsam Commission, making available for the schools of the State for the first year an additional appropriation from State funds of approximately \$16,000,000 and still further increasing our State aid for schools by approximately \$5,500,000 each year for three years thereafter. As a result of this far-reaching legislation, which supplemented the laws of the previous year, State aid for schools increased from over \$43,000,000 in 1926 to approximately \$70,000,000 in 1927. These great constructive financial measures may well be considered companion legislation to the teachers' salaries bill of 1920, which added over \$20,000,000 to State aid for schools. The former legislation related especially to teacher compensation, which was most vital at the moment; while the recent legislation deals with the acute problem relating to school finance, with special

reference to the equalization of the burden in cities and districts throughout the State.

Notwithstanding wide differences of honest opinion regarding methods of procedure, we were finally able to agree upon a constructive plan which resulted in the Central Rural School Act of 1925. About forty of these large central districts have already been formed. This plan also challenges the local initiative of the community as the program is entirely permissive in character. Greatly improved educational facilities are available in these communities, and with the objective illustration of what can be accomplished through such an enlarged unit with better physical equipment and with greatly improved teaching service, it is apparent that there will be rapid and continued improvement in the status of our program of rural education.

It is with real satisfaction that we note the progress that has been made during recent years in the development of a more constructive program of rural education. I have repeatedly recommended measures for the improvement of rural education, emphasizing particularly the importance of a larger unit of taxation and administration than obtained under the old and antiquated system, and the necessity of increased support by the State in order that better educational opportunities might be provided in the rural schools.

From 1919 to the present time, the registration in our State normal schools has increased from approximately 1,900 to over 6,000. This great increase in student registration in our teacher-training institutions is especially encouraging in view of the fact that higher standards of qualification have been prescribed for admission and that the course in these institutions is on a strictly professional basis requiring three years for its completion.

Notwithstanding the great advance which we have made during the past decade, there are certain specific recom-

mendations which I wish to present for your consideration.

There should be more adequate provision for the supervision of our rural schools. Real steps in advance have been made, but our unit of supervision and administration is too small for effective service. In view of this situation, the time must soon come when we shall be able to look forward to a definite program of county supervision with county boards of education to whom the county superintendent is directly responsible for the supervisory program. The importance of such a larger unit has been recognized in many other phases of State governmental service. We are thinking in terms of the county unit in connection with many matters such as health and highways. The supervision and administration of our smaller schools need the strength of a larger administrative unit which will insure supervision of a superior type that will be reasonably comparable with the supervisory programs in our cities. No effective rural supervision will ever be accomplished until the unit is sufficiently large to insure effective service of this character.

Your attention is also directed to further problems relating to school support, especially those phases of school finance which have for too long a time been the subject of petty differences between municipal and school authorities. This is a matter which especially concerns our larger municipalities. This problem will necessitate legislation that will more clearly define the respective prerogatives of the municipal authorities and local boards of education. With the constantly increasing expenditures for school purposes, and with the increasing costs for local municipal needs, this problem must soon be definitely and satisfactorily determined.

Your attention is also directed to the need for additional appropriations to our State Department of Education, with particular reference to the urgent necessity for the develop-



ment of a Division of Research. It is becoming more and more important that we have complete and scientific information with regard to every phase of educational service. Such a Division of Research would place our Department of Education in a position to render increasing service to the cities and other communities throughout the State in more scientific studies of every phase of the school problem. The demands on the Education Department for such service are constantly increasing. The added responsibilities that are being placed on the schools of the State make necessary much more complete scientific information regarding educational trends. These matters should be constantly evaluated, which can be effectively done only through modern research methods.

A limited service of this character is already being rendered by our Education Department, but the responsibilities and the demands are so rapidly increasing that nothing less than a well-equipped division for this service is essential to our State Department of Education. The growing demand from all parts of the State for service of this type should be recognized and should be made possible through the appropriations that are necessary for the development of such a Research Division. This should prove one of the most progressive steps in the development of our important Department of Education which has been taken in many years.

I desire further to call to your attention the education of children in the child-caring institutions of the State. I am satisfied that these children are entitled to an education and a training equal in every respect to that provided by the education law for the more fortunate children who are able to attend the public schools of the State.

The constitutional mandate to the Legislature reaches to the children in the institutions as well as the others. Most of them are in need of special educational treatment and

care. Many are juvenile delinquents, others have mental handicaps, and others have physical disabilities. These children are entitled to the best teaching service that money can provide. They are entitled to courses of study that are adapted to their mental abilities and physical limitations, and to adequate physical equipment for their general and vocational education. This should be supervised by competent specialists who understand their educational needs. The best guarantee against a later responsibility by the State for the care and support of large numbers of these children is an educational program that will enable them to leave the institutions with an adequate general education and vocationally equipped to enter a wage-earning occupation.

To bring this about it will be necessary to amend the law to provide that properly licensed teachers receiving their licenses from the State Education Department be called to service in these institutions instead of, as under the present custom, taking teachers from Civil Service lists not made up with the same qualifications as those for licensing teachers for the public-school system.

There should be set up in the Department of Education a Bureau of Special Schools. At the present time the Department of Education is supervising the children at Craig Colony, but not at Industry or the Thomas Indian School or at any other child-caring institutions.

In the message that will accompany the appropriation bill, I will suggest what in my opinion will be the financial needs of such a bureau in the State Department of Education.

The year 1927 marks the 150th anniversary of two epoch-making events in the history of this commonwealth: (1) The founding of the government of the State of New York in 1777 at Kingston; and (2) the defeat of the Burgoyne campaign. Following the recommendation made in my last annual message, the Legislature appropriated public funds

for suitable commemorations under the Commissioner of Education and the Regents of the University of the State of New York.

At Kingston on September 10, 1927, addresses and a historic pageant marked the sesquicentennial of the adoption of our first State Constitution, the inauguration of George Clinton as our first State Governor, the meeting of the first State Legislature, and the first session of the Supreme Court.

The commemoration of the defeat and surrender of Burgoyne, which brought recognition and assistance from friendly European powers and assured our national independence, culminated in a splendid celebration of song, speech, and pageant on the Saratoga battlefield, in which the Federal Government and sister States joined New York.

These sesquicentennial observances under the regents' program have stimulated a deeper interest among children and adults in the origin and growth of our democratic institutions; have created a more responsible and more responsive citizenship; and have awakened a better appreciation of New York's history both among our own people and throughout the nation. At the same time the historical publications, the erection of permanent markers, and the preservation of historic sites during the year have given the Empire State a primacy among the States of the Union.

These sesquicentennial commemorations in 1926 and 1927 were restricted to the eastern, northern and central portions of the State. The people of the southern and western sections are interested in observing in 1929 the 150th anniversary of the Sullivan Campaign, which was planned by Washington, authorized by Congress, and carried out on New York soil. Its success helped to win an inland empire for this State and the nation. I commend to your consideration such suggestions on this subject as the commissioner of education and the regents may make.

*A Letter to a State Employee's Widow*

Copy of a letter sent by Governor Smith to the widow of the keeper at Auburn Prison who was killed in the discharge of his duty:

November 18, 1927.

Mrs. James B. Durnin,  
Auburn, New York.

My dear Mrs. Durnin:

In common with the rest of the citizens of the State, in a spirit of devotion to our government, I was shocked at the sad news of the killing of your husband in the performance of his duty. He was representing the sovereignty of the State, and he died for it as valiantly as though he met death on the field of battle.

The sympathy of the people of the State goes out to you and your children in full measure. While revenge can never be the State's purpose, you may be sure that it will be the aim of the officials to sustain to the last degree the dignity and majesty of the law. The State will not be unmindful of you and your children.

Sincerely yours,

(Signed) ALFRED E. SMITH.



## DEFYING HEARST

On October 29, 1919, a mass-meeting under the auspices of a representative citizens' committee was held in Carnegie Hall. The Governor attended. There he expected to debate with Mr. Hearst, who in a scurrilous communication refused to meet him. Every wise politician knew that this meeting meant an irreparable break with Hearst, who had combined with Tammany Hall to elect the local administration. It meant that Alfred Smith had determined to fight the influence of one of the richest of men, wielded through the ownership of a chain of newspapers extending from New York to California. His speech dealt chiefly with the charges about a milk trust.

I am going to ask for your absolute silence and attention.

I feel that I am here tonight upon a mission as important not only to myself, but to this city, to this State and to this country, as I could possibly perform. Of course, I am alone. I don't know whether the chairman or the committee expected that I would be alone, but I knew that I would, and I felt that I would, because I know the man to whom I issued the challenge, and I know that he has not got a drop of good, clean, pure red blood in his whole body. And I know the color of his liver, and it is whiter, if that could be, than the driven snow. . . .

On the ninth of January there was an acute situation in the city here because of a strike between the farmers on the one hand and the distributors of milk on the other. I was appealed to. Under the law of the State I had no power to command any man to do anything that I thought he ought to do, but I undertook to settle the strike. I sent for the representatives of the farmers on the one side, the representatives

of the distributors on the other, and I asked some citizens to sit in and talk with them to the end that we might end the strike. In that I was successful, for the milk began to flow into New York, and the committee so arranged it that there was to be no increase in the price to the consumer. That is what happened on the ninth of January, and that is the committee that is so grossly and so gravely misrepresented in the Hearst newspapers as being a committee made up of the representatives of the trust.

How else could you settle a strike of that kind? How did the Federal government attempt to settle the harbor strike or the longshoremen's strike? Did they appoint doctors and lawyers on the committee, or college professors? Why, not at all. They appointed the representatives of the strikers. And that is exactly what I did, and that fact has been distorted and turned around until it is a mass of lies, not understandable to anybody, only to the man that concocts them, for he has the hidden motive and the hidden purpose in the back of his head. Everything went along all right until the twenty-fifth of March, when we had the parade of the Twenty-seventh Division. Before that parade, Mr. Hearst, through another party, not directly, but through another party, made a request of me that I denied. I denied it because I did not think, as Governor of this State, in honor I could do it. Through another party, Mr. Hearst asked me for an appointment for a friend of his. I made up my mind that the appointee should be a woman, to a State commission, and I selected a woman from the western part of the State. And that disappointed him. Ten days after that—watch the circumstantial case, and follow me along with it now, while I put it all together and show you the motive—ten days after that, the first editorial appears in the *New York American*. It does not chastise me. It is a kindly editorial. It is one of those editorials of warning. It says, "The test of the Gov-

error is now at hand. Will he fail?" It quotes a statement that I made upon the adjournment of the Legislature, criticizing them for failing to pass the welfare bill that I recommended in my first annual message. And then it follows on by saying, "Those are nice words, Governor, but the people don't go by words; they go by deeds. Why did you appoint Judge Kellogg a Public Service Commissioner?" He was all right on the first of January, but after Mr. Hearst suffered his disappointment because he felt that he could not call upon me to do that which I did not think was right, he found fault with Kellogg and used that familiar expression of his, "a tool of the corporations," or something to that effect. . . .

The Governor was still running the State his own way, and doing what he thought was the right thing, and every attempted attack was lost to the public. It made no hit. So there was a little meeting, and the question was discussed as to what next to go at the Governor on. So they finally made their mind up that they would attack the Governor of the State because he refused to fix the price of milk in New York at a lower figure than the people were charging for it. The attack went on practically through the summer. There was a little cessation of it immediately before the designations were made for the county ticket, but the day after the designations were made it began with renewed force and renewed vigor, and "Smith was responsible for the starvation of the children in New York, because he refused to reduce the price of milk." This story will be rightly and properly told before I get finished, and when it is told it will constitute in itself the gravest abuse of the power of the press that was ever wielded by a newspaper or by an individual in the history of this country.

I cannot think of a more contemptible man—my power of imagination fails me to bring into my mind's eye a more

despicable man than the man that exploits the poor. Any man that leads you to believe that your lot in life is not all right, any man that conjures up for you a fancied grievance against your government or against the man at the head of it, to help himself, is breeding the seeds of an anarchy and a dissatisfaction more disastrous to the welfare of the community than any other teaching that I can think of, because, at least, the wildest anarchist, the most extreme Socialist, the wildest radical that you can think of, may at least be sincere in his own heart. He may think that it is right when he preaches it. But the man that preaches to the poor of this or of any other community discontent and dissatisfaction to help himself and to make good his side of the argument, and to destroy, as he said himself he would, the Governor of the State, is a man as low and as mean as I can picture. Throughout this whole campaign it was attempted to fix in the minds of the people that there existed some place in the statute law of this State the power on the part of the Governor to fix the price of milk, and in Hearst's desperation after a nomination he didn't like, that was put into his paper in so many words, and he knew that it is not so. His lawyers knew that it is not so, and I defy him—and he has the best legal advice in this city, because he never utters a word until it is well scrutinized by an array of lawyers to keep him away from libel suits—I defy him or his lawyers to challenge that cold, straightforward statement of mine, that no power exists in my hands or in the hands of any other agency of this government, to fix the price at which anybody can sell anything in this State, whether it is milk or shoes or clothing or houses or anything else. By insinuation and, at times, in his desperation, by direct declaration, the public have been given to believe that the Governor has some power of removal over the officials of the Department of Agriculture and the Department of Farms and Markets. He knows



that I have not. Every one of his lawyers knows that I have not. Every man that writes on his newspapers knows that the Governor of the State has no power to remove any of the officials of the Department of Agriculture. He knows that they are all appointed by a Council of Farms and Markets, and he knows that the Council is elected by the Legislature, and in 1917 the agricultural, farming, and market interests of this State, to the minutest detail, were removed away from the control of the Governor, in order that they may be a regency, as are the educational affairs of the State. But all through his articles he has given the insinuation that men in that department, unfit for office, could be removed by me, when he knew it to be not the fact.

Now, he flares out a headline that Smith appointed a representative of the milk trust to office. That is a lie. I never appointed the man whose name he mentioned in the paper in my life, and every appointment that is made by the Governor, even to a notary public, has to be recorded in a certain book that is public property in the Executive Chamber in Albany, and he can go up and look at that book. In a cold-blooded, deliberate way, he puts it on the front page of his paper that the Governor of the State appointed the attorney of the milk trust to a high important office, when no such thing happened. Neither was the man appointed by anybody appointed by me. What are the facts? That is Hearst's story, and here are the facts:

Immediately after the first of January the Superintendent of Prisons asked a committee of men and women to make a survey of the prisons. He suggested to me that it would be a good thing, and I said, "Go ahead. If it will help the State and help the prison system, I am for it; you get a good committee." He appointed Adolph Lewisohn, of New York, a woman named Helen Hartley Jenkins, and the Episcopal Bishop of New York, who died a short time ago, and two

other men whose names I do not know. I was informed afterwards that the lawyer spoken of was a friend of Mr. Lewisohn, the chairman of the committee appointed by Rattigan, and that Lewisohn asked him to sit in the preparation of some bills that are destined to better the conditions under which men have to live in the prisons of this State. Now, that is the fact.

He flared out in his headline something that I had to pay attention to, that the New York Central was in league with the milk trust to curb the men that did not join the League; and he gave the details of a station in Dutchess county where the New York Central Railroad refused to accept the milk. Immediately upon seeing that story I became concerned, because public service corporations like the New York Central are under strict regulation by the State, and discrimination against any shipper of any kind of a product is a violation of the Public Service Law; and I immediately sent for the district attorney of this county. The district attorney subpœnaed the men from up in Dutchess county, and after a thorough examination of the case I got a letter from the district attorney of which I will read but a few lines: "The explanation made by Mr. Grinnell is a clear and satisfactory one, from which it would appear that the New York Central Railroad was not, nor was any of its representatives, a member of any conspiracy to prevent Mr. McArthur from shipping milk to this city."

The fact of the matter was that no milk came from this station in Dutchess county to this city in thirteen years. Yet this man, in his newspaper, assailed the character of the leading citizens of this community, because they are interested in that great public service corporation, and leagued me up with them. Not a word of truth, not a syllable of truth in it.

There was a wonderfully great, flaring headline one day

that the district attorney of this county was being interfered with by politicians, that public men in this county were standing in the way of prosecution for criminal acts by the milk distributors. Well, that is a rather serious situation. If there is any man, be he public or be he private, in this county or in any other county, who stands in the way of a criminal prosecution, he is an enemy to the county, he is an enemy to the State, and an enemy to the people. So I wanted to find out who he was, and I sent word to the district attorney, and the next morning I saw in all the rest of the newspapers a statement by the district attorney that he never uttered a word of it, and I think he remarked that he never saw a reporter from either the *American* or the *Journal* for the whole week before that. Is that the treatment to give to intelligent people—make them think that there are people in this city here, or in his county, standing in the way of the orderly processes of justice? What kind of seed does that breed inside of your mind? What kind of thought does that put into your heart? What kind of idea does that give you of the great underlying structure of democracy, the purity of the courts, of the grand jury, and of the judiciary generally? What difference does it make how much misrepresentation there is if there is a Governor that has got to be destroyed because he is not amenable to orders?

Another flare headline, "Why don't the Governor bring the milk trust into court and make them show up their books?" Why, the answer to that is just this: We have in this State a government of laws, not men. I am not a czar, I am not a despot; I am just a plain ordinary man, picked out by a majority of the people in this State to administer the law as it is in the statute books. I have not got the power to bring anybody into court. I cannot even arrest you; a policeman can, but I cannot. Absolutely ridiculous, but a

play to the poor, and a play to the man that does not understand the orderly legal procedure of the State. The man that does that, making you think that he is your friend, is the greatest enemy that you can find.

Of course you all remember the harrowing details of all the babies that were dying in New York because the Governor did not reduce the price of milk. The fact is, and it is something for which we can be thankful to Almighty God, that the infant mortality in this State and in this city in the last six months has been lower than at any other time in the whole history of the State. That is the fact.

I think the most ridiculous headline I saw was, "The Governor interferes with the prosecution of the trust." This is the fact: I sent down to the Criminal Courts building for Judge Swann and his assistant in the month of August, immediately after I impaneled the special grand jury to hear the criminal anarchy cases. I sent for Swann and I said, "Have you got any evidence against these distributors?" He said, "Yes." I said, "Go and bring it in before that special grand jury, or any other grand jury that you have got down there." He said, "I don't know whether the call is broad enough to comprehend milk. You called this grand jury into being for a certain specific purpose." "Well," I said, "wait until I tell you something, Judge. If the call is not broad enough, I will broaden it this afternoon; and I want to say this to you: I don't know whether I have that power or not; if I have I will do it, and if I haven't I know that I have got the power to impanel another one, and I will give you another jury." Swann went down and presented the evidence against the distributors of milk in this county. I wrote to him to find out what was the result, and I take a small extract from his letter: "I have presented all the evidence that I have been able to secure, but without direct evidence or a



confession of guilt, I do not think the grand jury will indict."

Now, there again—just think of what that means, to have planted in the mind of a man or a woman that the Governor of this State would interfere through the district attorney of any county in the prosecution of anybody that committed a criminal act. Nobody could say it, no reasonable, normal, sane, sensible person could advance it, and no decent newspaper would ever print it.

You read, of course, how I saved some food adulterers from going to jail. That has been flared day after day, a copy of a letter from a former member of the Legislature sent to me when I was Speaker of the Assembly—you remember reading it. Here are the facts: While I was Speaker of the Assembly, a former member sent me a letter and in the letter said that he or another member had received notice of a violation, the violation had not been committed by a woman, but by the man that sold the stuff to her. I never saw the letter. Why, a man that is Speaker of the Assembly of this State, that would have time to read the letters that come to him—it is a physical impossibility. The letter was taken by one of my secretaries or one of my clerks, and sent over to the Department of Agriculture, and I never knew anything of it, and that is the last he heard of it. The records show that the guilty party was convicted and paid the maximum fine. Now, that is the truth about it. What sensible person would attempt for a minute to put the impression in the minds of the people of this State that food adulterers, purveyors of impure food, were to be protected by anybody? But of course you have to have the Governor assassinated, and it had to be done.

Of all the misrepresentation, of all the newspaper misrepresentation of anything that I ever heard of, the worst

was brought to my attention in this very recent tirade against me, that I vetoed a bill in the interests of the big packing concerns, Cudahy, Wilson, and Swift. The man that was testifying on the stand testified that the bill about which he was talking was vetoed in 1918, the year before I was Governor; and the New York *Evening Journal* cut and slashed at that man's testimony in such a way that it made that story read that I vetoed that bill. No such bill was ever presented to me, and no such bill passed the Legislature last year, and for the very good reason that the Attorney-General gave the Health Department an opinion to the effect that they had the right and the jurisdiction under the broad police power of the State to go into any storage warehouse, and they decided that they didn't need it.

There is one thing that I would like to have clear in the minds of the audience, because it is clear in my mind, and that is, that I invite fair, just, and honest criticism of my administration, in its every detail. I will go a step further and say that I will be thankful, thankful to, and not resentful against, any individual or any newspaper in this State that will show me what is wrong with my administration, because it means so much to me that it be right. When I went to Albany I went there with the fixed determination in my mind that never again would anybody be able to raise their head up in this State and say that the man from lower New York that belonged to Tammany Hall could not run the State. And the strangest thing about it all is the fact that nearly every other newspaper in this State has spoken in commendation of my administration except the paper that belonged to the man that wanted to tell me what I ought to do.

But there is nothing remarkable about it, in the last analysis, nothing very remarkable about the assault upon me. Follow back the history of this man's newspapers since he

came to this part of the country, and you will have to read out of his newspapers this remarkable fact: That in this great democracy, in this land of the free and in this home of the brave, there has never been a man elected to office yet that has not been tainted in some way. If the Hearst newspapers were the text books for the children of our schools, they would have to spell out of its every line that no man can be trusted in this country after he is put into public office; that no man thinks enough about it; no man has enough of regard for it; no man has enough of real Christian charity to do the thing right; no man that ever held great public office had enough of respect and regard for his mother and his wife and his children and his friends to be right in office. About that there can be no question, because no public man in this State, from Grover Cleveland right down to today, has ever escaped this fellow. We all know that. The children on the street know it.

When the President of the United States returned from his speaking trip through the West, broken in health, after a long, hard seige at the White House; trying to keep this country headed in the right direction, giving the best that there was in him to America and what America stood for, expressing to this world in the greatest language that any man ever brought to his command the high ideals that inspired America—when he returned to the White House and lay upon his back sick in bed, this part of the country had the satisfaction of reading in the New York *Evening Journal* that he betrayed the best interests of America and turned her over to Europe for the presents that his wife got while they were abroad. Is there any doubt about that? What manner of man is it, and what manner of newspaper institution is it, in this country today that would plant that seed in the mind of anybody?—only to have it develop afterwards that the presents that were spelled into bribes for his betrayal of the

country were about \$250 worth<sup>1</sup> of small trinkets that were given to him and his wife by the people that they met in the course of their travels through Europe.

I do not come here in my capacity alone as a citizen of your country. I come here tonight as the Governor of your State. I come here to tell you that there is a condition of unrest throughout this whole country and in this State. I was called out of bed at an early hour this morning because of striking and rioting and murder that was being committed in one of the up-State cities. We passed through a hard period. We passed through the unnatural period of war. Every boy and every girl knows that Almighty God never put people together in nations to have them destroy each other. It is an unnatural consequence and an unnatural condition, and from it must naturally grow unnatural children. And that spirit of unrest is throughout this land today, but I am one of the men that have supreme confidence in the good sense, in the hard common sense and in the good judgment of the American people to be able to weather any kind of storm. Labor unrest will cure itself. We will attend to all of our internal problems. No appeal to American patriotism and American devotion to this country was ever lost on any American's ears. But I come here tonight to say that the utterances of these newspapers make it very difficult for the Governor to do it. That is the problem. I cannot be expected to have the influence I ought to have in this State at this time. No more can the President of the United States expect to have the influence that he should have in the country at this time if a newspaper here in the populous city of New York is permitted to drag them down to serve the purposes of the owner of the paper.

After my speech at the Women's Democratic League, when I returned to Albany, and before I left New York, I received from every part of this country upwards of 5,000



letters commending me for the stand that I had taken, five thousand of them commending me; and I received one letter commending Hearst. Let me read that one to you: "You want to complain about W. R. Hearst. I know that he is an anarchist, but he has done one good thing, he exposes you grafters, all right. You don't need to complain; you know that you have sold the public and their babies to the milk trust; you know you got your share of the \$5,000,000 they made in nine months. What the hell do you care about the public? You're just the same as that Judas, Wilson; he sold the whole world to England and tyranny, and you sold the public to the milk trust. But you got your reward for it. The other fellow is dying already, and you'll get yours."

No name signed to it, but it is *bona fide*.

Now, I would not have paid much attention to that letter were it not for the fact that, as I read it over the second time, I find that it contains almost verbatim a number of headlines from the Hearst papers. Now, that is where that man got his idea, and that is where he got his inspiration, and that is his idea of this country and his treatment for the President or any other public official.

Nobody that ever went to the Governor's office went there with a graver sense of the responsibility of that office than I did. What could there possibly be about me that I should be assailed in this reckless manner by this man? I have more reason probably than any man I will meet tonight to have a strong love and a strong devotion for this country, for this State, and for this city. Look at what I have received at its hands: I left school and went to work before I was fifteen years of age. I worked hard, night and day; I worked honestly and conscientiously at every job that I was ever put at, until I went to the Governor's chair in Albany. What can it be? It has got to be jealousy, it has got to be envy, it has got to be hatred, or it has to be something that nobody under-

stands, that makes me come down here, into the city of New York, before this audience, and urge them to organize in this city to stay the danger that comes from these papers, to the end that the health, the welfare, and the comfort of this people, of the people of this State, may be promoted, and we may get rid of this pestilence that walks in the darkness.

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